

AMENDED IN SENATE JANUARY 23, 2002
AMENDED IN SENATE SEPTEMBER 14, 2001

AMENDED IN SENATE JUNE 5, 2001
AMENDED IN ASSEMBLY APRIL 4, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1122

Introduced by Assembly Member Corbett

February 23, 2001

~~An act to amend Section 17731 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. An act to amend Sections 17024.5, 17052.6, 17062, 17063, 17073, 17085, 17140, 17140.3, 17144, 17152, 17279, 17279.4, 17501, 17551, 17570, 17751, 17752, 17760.5, 19136, 19365, 23038.5, 23051.5, 23456, 23457, 23701s, 23705, 23711, 23712, 23800.5, 23801, 23802, 23806, 23811, 24307, 24349, 24355.5, 24369.4, 24710, and 24872.4 of, and to add Sections 17144.5, 17205, 17207.5, 19136.8, and 24347.6 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1122, as amended, Corbett. Taxation: federal conformity.

Under existing Personal Income Tax Law and the Bank and Corporation Tax Law a taxpayer, generally, has the option to treat specified transactions differently than the manner in which the transaction was elected to be treated for federal income tax purposes.

This bill would provide, with specified exceptions, that any election made for federal income taxes would apply for state income tax purposes.

This bill would make certain other changes in conformance with federal law, as specified, with respect to the dependent care expense credit, the treatment of gifts of appreciated property, and the penalties imposed for underpayments of estimated taxes.

The Personal Income Tax Law, in partial conformity with federal law, provides tax benefits for contributions to specified retirement plans.

This bill would, in conformance with the Economic Growth and Tax Relief Reconciliation Act of 2001, expand the tax benefits allowed for contributions to these retirement plans.

This bill would take effect immediately as a tax levy.

~~Under the Personal Income Tax Law and Bank and Corporation Tax Law, various provisions of the federal Internal Revenue Code are incorporated by reference in various sections of the Revenue and Taxation Code, including provisions of the Internal Revenue Code relating to estates, trusts, beneficiaries, and decedents.~~

~~This bill would revise that reference to the federal Internal Revenue Code, relating to estates, trusts, beneficiaries, and decedents, to also include the federal Victims of Terrorism Relief Act of 2001.~~

~~This bill would take effect immediately as a tax levy.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 17731 of the Revenue and Taxation~~
2 ~~Code~~
3 *SECTION 1. Section 17024.5 of the Revenue and Taxation*
4 *Code is amended to read:*
5 17024.5. (a) (1) Unless otherwise specifically provided, the
6 terms “Internal Revenue Code,” “Internal Revenue Code of
7 1954,” or “Internal Revenue Code of 1986,” for purposes of this
8 part, mean Title 26 of the United States Code, including all
9 amendments thereto as enacted on the specified date for the
10 applicable taxable year as follows:
11

	Taxable Year	Specified Date of Internal Revenue Code Sections
1		
2		
3		
4	(A) For taxable years beginning on or after January 1,	
5	1983, and on or before December 31, 1983	January 15, 1983
6	(B) For taxable years beginning on or after January 1,	
7	1984, and on or before December 31, 1984	January 1, 1984
8	(C) For taxable years beginning on or after January 1,	
9	1985, and on or before December 31, 1985	January 1, 1985
10	(D) For taxable years beginning on or after January 1,	
11	1986, and on or before December 31, 1986	January 1, 1986
12	(E) For taxable years beginning on or after January 1,	
13	1987, and on or before December 31, 1988	January 1, 1987
14	(F) For taxable years beginning on or after January 1,	
15	1989, and on or before December 31, 1989	January 1, 1989
16	(G) For taxable years beginning on or after January 1,	
17	1990, and on or before December 31, 1990	January 1, 1990
18	(H) For taxable years beginning on or after January 1,	
19	1991, and on or before December 31, 1991	January 1, 1991
20	(I) For taxable years beginning on or after January 1,	
21	1992, and on or before December 31, 1992	January 1, 1992
22	(J) For taxable years beginning on or after January 1,	
23	1993, and on or before December 31, 1996	January 1, 1993
24	(K) For taxable years beginning on or after January 1,	
25	1997, and on or before December	
26	31, 1997	January 1, 1997
27	(L) For taxable years beginning on or after	
28	January 1, 1998	January 1, 1998
29		

(2) Unless otherwise specifically provided, for federal laws enacted on or after January 1, 1987, and on or before the specified date for the taxable year, uncodified provisions that relate to provisions of the Internal Revenue Code that are incorporated for purposes of this part shall be applicable to the same taxable years as the incorporated provisions.

(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle H (Repeal of Expired or Obsolete Provisions) of the Revenue Reconciliation Act of 1990 (Public Law 101-508) modified numerous provisions of the Internal Revenue Code and provisions of prior federal acts, some of which are incorporated by reference

1 into this part. Unless otherwise provided, the provisions described
2 in the preceding sentence, to the extent that they modify provisions
3 that are incorporated into this part, are declaratory of existing law
4 and shall be applied in the same manner and for the same periods
5 as specified in the Revenue Reconciliation Act of 1990.

6 (b) Unless otherwise specifically provided, when applying any
7 provision of the Internal Revenue Code for purposes of this part,
8 a reference to any of the following shall not be applicable for
9 purposes of this part:

10 (1) Except as provided in Chapter 4.5 (commencing with
11 Section 23800) of Part 11 of Division 2, an electing small business
12 corporation, as defined in Section 1361(b) of the Internal Revenue
13 Code.

14 (2) Domestic international sales corporations (DISC), as
15 defined in Section 992(a) of the Internal Revenue Code.

16 (3) A personal holding company, as defined in Section 542 of
17 the Internal Revenue Code.

18 (4) A foreign personal holding company, as defined in Section
19 552 of the Internal Revenue Code.

20 (5) A foreign investment company, as defined in Section
21 1246(b) of the Internal Revenue Code.

22 (6) A foreign trust, as defined in Section 679 of the Internal
23 Revenue Code.

24 (7) Foreign income taxes and foreign income tax credits.

25 (8) Section 911 of the Internal Revenue Code, relating to
26 United States citizens living abroad.

27 (9) A foreign corporation, except that Section 367 of the
28 Internal Revenue Code shall be applicable.

29 (10) Federal tax credits and carryovers of federal tax credits.

30 (11) Nonresident aliens.

31 (12) Deduction for personal exemptions, as provided in
32 Section 151 of the Internal Revenue Code.

33 (13) The tax on generation-skipping transfers imposed by
34 Section 2601 of the Internal Revenue Code.

35 (14) The tax, relating to estates, imposed by Section 2001 or
36 2101 of the Internal Revenue Code.

37 (c) (1) The provisions contained in Sections 41 to 44,
38 inclusive, and 172 of the Tax Reform Act of 1984 (Public Law
39 98-369), relating to treatment of debt instruments, shall not be
40 applicable for taxable years beginning before January 1, 1987.

1 (2) The provisions contained in Public Law 99-121, relating to
2 the treatment of debt instruments, shall not be applicable for
3 taxable years beginning before January 1, 1987.

4 (3) For each taxable year beginning on or after January 1, 1987,
5 the provisions referred to by paragraphs (1) and (2) shall be
6 applicable for purposes of this part in the same manner and with
7 respect to the same obligations as the federal provisions, except as
8 otherwise provided in this part.

9 (d) When applying the Internal Revenue Code for purposes of
10 this part, regulations promulgated in final form or issued as
11 temporary regulations by “the secretary” shall be applicable as
12 regulations under this part to the extent that they do not conflict
13 with this part or with regulations issued by the Franchise Tax
14 Board.

15 (e) Whenever this part allows a taxpayer to make an election,
16 *on or after January 1, 2002, in taxable years beginning on or after*
17 *January 1, 2002*, the following rules shall apply:

18 (1) A proper election *for federal income tax purposes* filed with
19 the Internal Revenue Service in accordance with the Internal
20 Revenue Code or regulations issued by “the secretary” shall be
21 ~~deemed to be a proper~~ *treated as an election* for purposes of this
22 part *and a separate election for state purposes shall not be*
23 *allowed*, unless otherwise provided in this part or in regulations
24 issued by the Franchise Tax Board.

25 (2) A copy of that election shall be furnished to the Franchise
26 Tax Board upon request.

27 ~~(3) To obtain treatment other than that elected for federal~~
28 ~~purposes, a separate election shall be filed at the time and in the~~
29 ~~manner required by the Franchise Tax Board. If a taxpayer does~~
30 ~~not make a proper election for federal income tax purposes, a~~
31 ~~separate election for purposes of this part shall not be allowed~~
32 ~~unless otherwise provided in this part.~~

33 (f) Whenever this part allows or requires a taxpayer to file an
34 application or seek consent, the rules set forth in subdivision (e)
35 shall be applicable with respect to that application or consent.

36 (g) When applying the Internal Revenue Code for purposes of
37 determining the statute of limitations under this part, any reference
38 to a period of three years shall be modified to read four years for
39 purposes of this part.

(h) When applying, for purposes of this part, any section of the Internal Revenue Code or any applicable regulation thereunder, all of the following shall apply:

(1) References to “adjusted gross income” shall mean the amount computed in accordance with Section 17072, except as provided in paragraph (2).

(2) References to “adjusted gross income” for purposes of computing limitations based upon adjusted gross income, shall mean the amount required to be shown as adjusted gross income on the federal tax return for the same taxable year.

(3) Any reference to “subtitle” or “chapter” shall mean this part.

(4) The provisions of Section 7806 of the Internal Revenue Code, relating to construction of title, shall apply.

(5) Any provision of the Internal Revenue Code that becomes operative on or after the specified date for that taxable year shall become operative on the same date for purposes of this part.

(6) Any provision of the Internal Revenue Code that becomes inoperative on or after the specified date for that taxable year shall become inoperative on the same date for purposes of this part.

(7) Due account shall be made for differences in federal and state terminology, effective dates, substitution of “Franchise Tax Board” for “secretary” when appropriate, and other obvious differences.

(i) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

SEC. 2. Section 17052.6 of the Revenue and Taxation Code is amended to read:

17052.6. (a) For each taxable year beginning on or after January 1, 2000, there shall be allowed as a credit against the “net tax” (as defined in Section 17039) an amount determined in accordance with Section 21 of the Internal Revenue Code, *as modified by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16)*, except that the amount of the credit shall be a percentage, as provided in subdivision (b) of the allowable federal credit without taking into account whether there is a federal tax liability.

(b) For the purposes of subdivision (a), the percentage of the allowable federal credit shall be determined as follows:

	The percentage of
If the California adjusted gross income is:	credit is:
\$40,000 or less	63%
Over \$40,000 but not over \$70,000	53%
Over \$70,000 but not over \$100,000	42%
Over \$100,000	0%

(c) In the case of a taxpayer whose credits provided under this section exceed the taxpayer's tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the taxpayer.

(d) For purposes of this section, California adjusted gross income means California adjusted gross income as computed for purposes of Section 17041.

(e) The credit authorized by this section shall be limited to those taxpayers who, during the taxable year, maintain a household, within the meaning of Section 21(e)(1) of the Internal Revenue Code, that is located within this state.

SEC. 3. Section 17062 of the Revenue and Taxation Code is amended to read:

17062. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, a tax equal to the excess, if any, of—

- (1) The tentative minimum tax for the taxable year, over
- (2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041 or 17048, before reduction for any credits against the tax, less any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560.

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to the following percent of so much of the alternative minimum taxable income for



1 the taxable year as exceeds the exemption amount, before
2 reduction for any credits against the tax:

3 (i) For any taxable year beginning on or after January 1, 1991,
4 and before January 1, 1996, 8.5 percent.

5 (ii) For any taxable year beginning on or after January 1, 1996,
6 7 percent.

7 (B) In the case of a nonresident or part-year resident, the
8 tentative minimum tax shall be computed by multiplying the
9 alternative minimum taxable income of the nonresident or
10 part-year resident, as defined in subparagraph (C), by a rate
11 (expressed as a percentage) equal to the tax computed under
12 subdivision (b) on the alternative minimum taxable income of the
13 nonresident or part-year resident as if the nonresident or part-year
14 resident were a resident of this state for the taxable year and as if
15 the nonresident or part-year resident were a resident of this state
16 for all prior taxable years for any carryover items, deferred
17 income, suspended losses, or suspended deductions, divided by
18 the amount of that income.

19 (C) For purposes of this section, the term “alternative
20 minimum taxable income of a nonresident or part-year resident”
21 includes each of the following:

22 (i) For any period during which the taxpayer was a resident of
23 this state (as defined by Section 17014), all items of alternative
24 minimum taxable income (as modified for purposes of this
25 chapter), regardless of source.

26 (ii) For any period during which the taxpayer was not a resident
27 of this state, alternative minimum taxable income (as modified for
28 purposes of this chapter) which were derived from sources within
29 this state, determined in accordance with Article 9 of Chapter 3
30 (commencing with Section 17301) and Chapter 11 (commencing
31 with Section 17951).

32 (iii) For purposes of computing “alternative minimum taxable
33 income of a nonresident or part-year resident,” any carryover
34 items, deferred income, suspended losses, or suspended
35 deductions shall only be allowable to the extent that the carryover
36 item, suspended loss, or suspended deduction was derived from
37 sources within this state.

38 (4) The provisions of Section 55(b)(2) of the Internal Revenue
39 Code, relating to alternative minimum taxable income, shall be
40 modified to provide that alternative minimum taxable income

1 shall not include the income, adjustments, and items of tax
2 preference attributable to any trade or business of a qualified
3 taxpayer.

4 (A) For purposes of this paragraph, “qualified taxpayer”
5 means a taxpayer who meets both of the following:

6 (i) Is the owner of, or has an ownership interest in, a trade or
7 business.

8 (ii) Has aggregate gross receipts, less returns and allowances,
9 of less than one million dollars (\$1,000,000) during the taxable
10 year from all trades or businesses of which the taxpayer is the
11 owner or has an ownership interest, in the amount of that
12 taxpayer’s proportionate interest in each trade or business.

13 (B) For purposes of this paragraph, “aggregate gross receipts,
14 less returns and allowances” means the sum of the gross receipts
15 of the trades or businesses which the taxpayer owns and the
16 proportionate interest of the gross receipts of the trades or
17 businesses which the taxpayer owns and of ~~passthrough~~
18 *pass-through* entities in which the taxpayer holds an interest.

19 (C) For purposes of this paragraph, “gross receipts, less returns
20 and allowances” means the sum of the gross receipts from the
21 production of business income, as defined in subdivision (a) of
22 Section 25120, and the gross receipts from the production of
23 nonbusiness income, as defined in subdivision (d) of Section
24 25120.

25 (D) For purposes of this paragraph, “proportionate interest”
26 means:

27 (i) In the case of a ~~passthrough~~ *pass-through* entity which
28 reports a profit for the taxable year, the taxpayer’s profit interest
29 in the entity at the end of the taxpayer’s taxable year.

30 (ii) In the case of a ~~passthrough~~ *pass-through* entity which
31 reports a loss for the taxable year, the taxpayer’s loss interest in the
32 entity at the end of the taxpayer’s taxable year.

33 (iii) In the case of a ~~passthrough~~ *pass-through* entity which is
34 sold or liquidates during the taxable year, the taxpayer’s capital
35 account interest in the entity at the time of the sale or liquidation.

36 (E) (i) For purposes of this paragraph, “proportionate
37 interest” includes an interest in a ~~passthrough~~ *pass-through* entity.

38 (ii) For purposes of this paragraph, ~~“passthrough~~
39 *“pass-through entity”* means any of the following:

40 (I) A partnership, as defined by Section 17008.

1 (II) An S corporation, as provided in Chapter 4.5 (commencing
2 with Section 23800) of Part 11.

3 (III) A regulated investment company, as provided in Section
4 24871.

5 (IV) A real estate investment trust, as provided in Section
6 24872.

7 (V) A real estate mortgage investment conduit, as provided in
8 Section 24874.

9 (5) For taxable years beginning on or after January 1, 1998,
10 Section 55(d)(1) of the Internal Revenue Code, relating to
11 exemption amount for taxpayers other than corporations is
12 modified, for purposes of this part, to provide the following
13 exemption amounts in lieu of those contained therein:

14 (A) Fifty-seven thousand two hundred sixty dollars (\$57,260)
15 in the case of either of the following:

16 (i) A joint return.

17 (ii) A surviving spouse.

18 (B) Forty-two thousand nine hundred forty-five dollars
19 (\$42,945) in the case of an individual who is both of the following:

20 (i) Not a married individual.

21 (ii) Not a surviving spouse.

22 (C) Twenty-eight thousand six hundred thirty dollars
23 (\$28,630) in the case of either of the following:

24 (i) A married individual who files a separate return.

25 (ii) An estate or trust.

26 (6) For taxable years beginning on or after January 1, 1998,
27 Section 55(d)(3) of the Internal Revenue Code, relating to the
28 phaseout of exemption amount for taxpayers other than
29 corporations is modified, for purposes of this part, to provide the
30 following phaseout of exemption amounts in lieu of those
31 contained therein:

32 (A) Two hundred fourteen thousand seven hundred
33 twenty-five dollars (\$214,725) in the case of a taxpayer described
34 in subparagraph (A) of paragraph (5).

35 (B) One hundred sixty-one thousand forty-four dollars
36 (\$161,044) in the case of a taxpayer described in subparagraph (B)
37 of paragraph (5).

38 (C) One hundred seven thousand three hundred sixty-two
39 dollars (\$107,362) in the case of a taxpayer described in
40 subparagraph (C) of paragraph (5).

(7) For each taxable year beginning on or after January 1, 1999, the Franchise Tax Board shall recompute the exemption amounts prescribed in paragraph (5) and the phaseout of exemption amounts prescribed in paragraph (6). Those computations shall be made as follows:

(A) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(B) The Franchise Tax Board shall do both of the following:

(i) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to subparagraph (A) and dividing the result by 100.

(ii) Multiply the preceding taxable year exemption amounts and the phaseout of exemption amounts by the inflation adjustment factor determined in clause (i) and round off the resulting products to the nearest one dollar (\$1).

(c) (1) (A) Section 56(a)(6) of the Internal Revenue Code as in effect on January 1, 1997, relating to installment sales of certain property, shall not apply to payments received in taxable years beginning on or after January 1, 1997, with respect to dispositions occurring in taxable years beginning after December 31, 1987.

(B) This paragraph shall not apply to taxable years beginning on or after January 1, 1998.

(2) Section 56(b)(1)(E) of the Internal Revenue Code, relating to standard deduction and deduction for personal exemptions not allowed, is modified, for purposes of this part, to deny the standard deduction allowed by Section 17073.5.

(3) Section 56(b)(3) of the Internal Revenue Code, relating to treatment of incentive stock options, shall be modified to additionally provide the following:

(A) Section 421 of the Internal Revenue Code shall not apply to the transfer of stock acquired pursuant to the exercise of a California qualified stock option under Section 17502.

(B) Section 422(c)(2) of the Internal Revenue Code shall apply in any case where the disposition and inclusion of a California qualified stock option for purposes of this chapter are within the same taxable year and that section shall not apply in any other case.

(C) The adjusted basis of any stock acquired by the exercise of a California qualified stock option shall be determined on the basis of the treatment prescribed by this paragraph.

(d) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not apply.

~~(e) (1) Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference the amount by which the deduction allowable under Section 170 of the Internal Revenue Code, relating to charitable contributions or gifts, or Section 642(c) of the Internal Revenue Code, relating to deduction for amounts paid or permanently set aside for a charitable purpose, would be reduced if all capital gain property were taken into account at its adjusted basis.~~

~~(2) For purposes of paragraph (1), the term “capital gain property” has the meaning given to that term by Section 170(b)(1)(C)(iv) of the Internal Revenue Code. That term shall not include any property to which an election under Section 170(b)(1)(C)(iii) of the Internal Revenue Code applies.~~

~~(f)~~ Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference an amount equal to one-half of the amount excluded from gross income for the taxable year under Section 18152.5.

~~(g)~~

(f) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not apply.

SEC. 4. Section 17063 of the Revenue and Taxation Code is amended to read:

17063. (a) There shall be allowed as a credit against the net tax (as defined by Section 17039) for any taxable year an amount equal to the minimum tax credit for that taxable year.

(b) For purposes of subdivision (a), the minimum tax credit shall be determined in accordance with Section 53 of the Internal Revenue Code, except as otherwise provided in this part.

(c) For purposes of this chapter, the amount determined under Section 53(c)(1) of the Internal Revenue Code shall be the regular tax as defined by paragraph (2) of subdivision (b) of Section 17062, reduced by the sum of the credits allowable under this part, other than:

(1) The credits described in paragraph (7) of subdivision (a) of Section 17039.

(2) Any credit which reduces the tax below the tentative minimum tax, as defined by Section 17062.

(d) Section 53(d)(1)(B)(ii)(II) of the Internal Revenue Code, relating to credit not allowed for exclusion preferences, is modified to include subdivision ~~(f)~~ (e) of Section 17062, as a specified item.

~~(e) Section 53(d)(1)(B)(ii)(II) of the Internal Revenue Code, relating to credit not allowed for exclusion preferences, is modified to include subdivision (e) of Section 17062, as a specified item.~~

SEC. 5. Section 17073 of the Revenue and Taxation Code is amended to read:

17073. (a) Section 63 of the Internal Revenue Code, relating to taxable income defined, shall apply, except as otherwise provided.

(b) *Notwithstanding subdivision (e) of Section 17024.5, an individual may make a separate state election to itemize deductions under Section 63(e) of the Internal Revenue Code.*

(c) The deduction allowed by Section 17208.1, relating to interest on loans or financed indebtedness obtained from a publicly owned utility for the purchase and installation of energy efficient products or equipment, shall not be treated as a miscellaneous itemized deduction under Section 67(a) of the Internal Revenue Code, relating to the 2-percent floor on miscellaneous deductions.

~~(e)~~

(d) For individuals who do not itemize deductions, the standard deduction computed in accordance with Section 17073.5 shall be allowed as a deduction in computing taxable income.

SEC. 6. Section 17085 of the Revenue and Taxation Code is amended to read:

17085. Section 72 of the Internal Revenue Code, *as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16)*, relating to annuities and certain proceeds of life insurance contracts, ~~shall be~~ *is* modified as follows:

(a) The amendments and transitional rules made by Public Law 99-514 shall be applicable to this part for the same transactions and the same years as they are applicable for federal *income tax* purposes, except that the repeal of Section 72(d) of the Internal

1 Revenue Code, relating to repeal of special rule for employees'
2 annuities, shall apply only to the following:

3 (1) Any individual whose annuity starting date is after
4 December 31, 1986.

5 (2) At the election of the taxpayer, any individual whose
6 annuity starting date is after July 1, 1986, and before January 1,
7 1987.

8 (b) The amount of a distribution from an individual retirement
9 account or annuity or employees' trust or employee annuity that
10 is includable in gross income for federal *income tax* purposes shall
11 be reduced for purposes of this part by the lesser of either of the
12 following:

13 (1) An amount equal to the amount includable in federal gross
14 income for the taxable year.

15 (2) An amount equal to the basis in the account or annuity
16 allowed by Section 17507 (relating to individual retirement
17 accounts and simplified employee pensions) or the increased basis
18 allowed by Sections 17504 and 17506 (relating to plans of
19 self-employed individuals), *the increased basis allowed by*
20 *Section 17501, or the increased basis allowed by Section 17551*
21 *that is* remaining after adjustment for reductions in gross income
22 under this provision in prior taxable years.

23 (c) (1) Except as provided in paragraph (2), the amount of the
24 penalty imposed under this part shall be computed in accordance
25 with Sections 72(m), (q), (t), and (v) of the Internal Revenue Code
26 using a rate of $2\frac{1}{2}$ percent, in lieu of the rate provided in those
27 sections.

28 (2) In the case where Section 72(t)(6) of the Internal Revenue
29 Code, relating to special rules for simple retirement accounts,
30 applies, the rate in paragraph (1) shall be 6 percent in lieu of the
31 $2\frac{1}{2}$ percent rate specified therein.

32 (d) Section 72(f)(2) of the Internal Revenue Code, relating to
33 special rules for computing employees' contributions, shall be
34 applicable without applying the exceptions which immediately
35 follow that paragraph.

36 *SEC. 7. Section 17140 of the Revenue and Taxation Code is*
37 *amended to read:*

38 17140. (a) For purposes of this section, the following terms
39 have the following meanings as provided in the Golden State

Scholarshare Trust Act (Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code):

(1) “Beneficiary” has the meaning set forth in subdivision (c) of Section 69980 of the Education Code.

(2) “Benefit” has the meaning set forth in subdivision (d) of Section 69980 of the Education Code.

(3) “Participant” has the meaning set forth in subdivision (h) of Section 69980 of the Education Code.

(4) “Participation agreement” has the meaning set forth in subdivision (i) of Section 69980 of the Education Code.

(5) “Scholarshare trust” has the meaning set forth in subdivision (f) of Section 69980 of the Education Code.

(b) Except as otherwise provided in subdivision (c), gross income of a beneficiary or a participant does not include any of the following:

(1) Any distribution or earnings under a Scholarshare trust participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(2) Any contribution to the Scholarshare trust on behalf of a beneficiary shall not be includable as gross income of that beneficiary.

(c) (1) Any distribution under a Scholarshare trust participation agreement shall be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code, as modified by Section 17085, to the extent not excluded from gross income under this part. For purposes of applying Section 72 of the Internal Revenue Code, the following apply:

(A) All Scholarshare trust accounts of which an individual is a beneficiary shall be treated as one account, except as otherwise provided.

(B) All distributions during a taxable year shall be treated as one distribution.

(C) The value of the participation agreement, income on the participation agreement, and investment in the participation agreement shall be computed as of the close of the calendar year in which the taxable year begins.

(2) A contribution by a for-profit or nonprofit entity, or by a state or local government agency, for the benefit of an owner or employee of that entity or a beneficiary whom the owner or

1 employee has the power to designate, including the owner or
2 employee's minor children, shall be included in the gross income
3 of that owner or employee in the year the contribution is made.

4 (3) For purposes of this subdivision, "distribution" includes
5 any benefit furnished to a beneficiary under a participation
6 agreement, as provided in Article 19 (commencing with Section
7 69980) of Chapter 2 of Part 42 of the Education Code.

8 (4) (A) Paragraph (1) shall not apply to that portion of any
9 distribution that, within 60 days of distribution, is transferred to
10 the credit of another beneficiary under the Scholarshare trust who
11 is a "member of the family," as that term is used in Section
12 529(e)(2) of the Internal Revenue Code, as amended by Section
13 211 of the Taxpayer Relief Act of 1997 (~~P.L.~~ (Public Law 105-34),
14 of the former beneficiary of that Scholarshare trust.

15 (B) Any change in the beneficiary of an interest in the
16 Scholarshare trust shall not be treated as a distribution for purposes
17 of paragraph (1) if the new beneficiary is a "member of the
18 family," as that term is used in Section 529(e)(2) of the Internal
19 Revenue Code, as amended by Section 211 of the Taxpayer Relief
20 Act of 1997 (~~P.L.~~ (Public Law 105-34), of the former beneficiary
21 of that Scholarshare trust.

22 ~~(d) For purposes of determining adjusted gross income,~~
23 ~~Section 62(a)(9) of the Internal Revenue Code shall not apply to~~
24 ~~any amount forfeited upon distribution of an account created~~
25 ~~pursuant to a participation agreement.~~

26 ~~(e) The amendments made to the Internal Revenue Code by~~
27 ~~Section 211 of the Taxpayer Relief Act of 1997 (P.L. 105-34) shall~~
28 ~~apply to taxable years beginning on or after January 1, 1998. For~~
29 ~~taxable years beginning on or after January 1, 2002, Sections~~
30 ~~529(c) and 529(e) of the Internal Revenue Code, as amended by~~
31 ~~Section 402 of the Economic Growth and Tax Relief Reconciliation~~
32 ~~Act of 2001 (Public Law 107-16), shall apply in lieu of~~
33 ~~subdivisions (b) and (c) of this section.~~

34 SEC. 8. Section 17140.3 of the Revenue and Taxation Code is
35 amended to read:

36 17140.3. Section 529 of the Internal Revenue Code, as
37 amended by Section 402 of the Economic Growth and Tax Relief
38 Reconciliation Act of 2001 (Public Law 107-16), relating to
39 qualified state tuition programs, shall apply, except as otherwise
40 provided.

(a) Section 529 (a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under this part and Part 11 (commencing with Section 23001)” in lieu of the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “Section 511.”

(b) A copy of the report required to be filed with the Secretary of the Treasury under Section 529(d) of the Internal Revenue Code shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

SEC. 9. Section 17144 of the Revenue and Taxation Code is amended to read:

17144. (a) Section 108(b)(2)(B) of the Internal Revenue Code, relating to general business credit, is modified by substituting “this part” in lieu of “Section 38 (relating to general business credit).”

(b) Section 108(b)(2)(G) of the Internal Revenue Code, relating to foreign tax credit carryovers, shall not apply.

(c) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting “11.1 cents” in lieu of “33¹/₃ cents” in each place in which it appears. In the case where more than one credit is allowable under this part, the credits shall be reduced on a pro rata basis.

(d) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting “(\$9)” in lieu of “(\$3).”

(e) (1) If a taxpayer makes an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, a separate election shall not be allowed ~~under paragraph (3) of subdivision (c) of Section 17024.5~~ and the federal election shall be binding for purposes of this part.

(2) If a taxpayer has not made an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, then the taxpayer shall not be allowed to make that election for purposes of this part.

SEC. 10. Section 17144.5 is added to the Revenue and Taxation Code, to read:

1 17144.5. Section 132 of the Internal Revenue Code, as
2 amended by Title VI of the Economic Growth and Tax Relief
3 Reconciliation Act of 2001 (Public Law 107-16), shall apply
4 except as otherwise provided.

5 SEC. 11. Section 17152 of the Revenue and Taxation Code is
6 amended to read:

7 17152. Section 121 of the Internal Revenue Code, relating to
8 exclusion of gain from sale of principal residence, is modified as
9 follows:

10 (a) The two-year period in Section 121(a) of the Internal
11 Revenue Code shall be reduced by the period of the taxpayer's
12 service, not to exceed 18 months, in the Peace Corps during the
13 five-year period ending on the date of the sale or exchange.

14 (b) If the taxpayer is prohibited from filing a joint return
15 pursuant to Section 18521, Section 121(b)(2)(A) of the Internal
16 Revenue Code shall nevertheless be treated as being satisfied if the
17 taxpayer files a joint return for federal income tax purposes for the
18 same taxable year. However, in no instance shall the total amount
19 excludable from gross income under Section 121(a) of the Internal
20 Revenue Code with respect to any sale or exchange exceed the
21 maximum amount allowed by Section 121(b) of the Internal
22 Revenue Code.

23 (c) (1) If a taxpayer has, at any time, made an election for
24 federal *income tax* purposes under Section 121(f) of the Internal
25 Revenue Code not to have Section 121 of the Internal Revenue
26 Code apply to a sale or exchange, Section 121 of the Internal
27 Revenue Code shall not apply to that sale or exchange for state
28 purposes, a separate election for state purposes shall not be
29 allowed ~~under paragraph (3) of subdivision (c) of Section 17024.5,~~
30 *and* the federal election shall be binding for purposes of this part,
31 and that election shall be treated as an election to include in gross
32 income for purposes of this part all the gain from the sale or
33 exchange of that property, including that amount which, but for
34 that election, would have been excluded from income under
35 Section 121(a) of the Internal Revenue Code for state purposes.

36 (2) If a taxpayer fails to make an election for federal *income tax*
37 purposes under Section 121(f) of the Internal Revenue Code to not
38 have Section 121 of the Internal Revenue Code apply to a sale or
39 exchange, no election under Section 121(f) of the Internal
40 Revenue Code shall be allowed for state purposes, Section 121 of

the Internal Revenue Code shall apply to that sale or exchange for state purposes, and a separate election for state purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 17024.5.~~

(d) (1) If a taxpayer has, at any time, made an election for federal *income tax* purposes under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public Law 105-34), relating to sales before date of enactment, or Section 312(d)(4) of that act, relating to binding contracts, to not have the amendments made by Section 312 of the Taxpayer Relief Act of 1997 (Public Law 105-34) apply to a sale or exchange, the amendments made by the act adding this subdivision shall not apply to that sale or exchange, Sections 1, 4, and 6 of Chapter 610 of the Statutes of 1997 shall not apply to that sale or exchange, a separate election for state purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 17024.5,~~ and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make an election for federal *income tax* purposes under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public Law 105-34), relating to sales before date of enactment, or Section 312(d)(4) of that act, relating to binding contracts, to not have the amendments made by Section 312 of the Taxpayer Relief Act of 1997 (Public Law 105-34) apply to a sale or exchange, an election under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public Law 105-34), relating to sales before date of enactment, or Section 312(d)(4) of that act, relating to binding contracts, shall not be allowed for state purposes, the amendments made by the act adding this subdivision shall apply to that sale or exchange, Sections 1, 4, and 6 of Chapter 610 of the Statutes of 1997 shall apply to that sale or exchange, and a separate election for state purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 17024.5.~~

SEC. 12. Section 17205 is added to the Revenue and Taxation Code, to read:

17205. Section 219 of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), relating to retirement savings, shall apply, except as otherwise provided.

SEC. 13. Section 17207.5 is added to the Revenue and Taxation Code, to read:

1 17207.5. Notwithstanding subdivision (e) of Section 17024.5,
2 a taxpayer may make a separate state election, under Section
3 165(i)(1) of the Internal Revenue Code, to take a loss attributable
4 to a disaster into account in the taxable year immediately
5 preceding the taxable year in which the disaster occurred.

6 SEC. 14. Section 17279 of the Revenue and Taxation Code is
7 amended to read:

8 17279. Section 197 of the Internal Revenue Code, relating to
9 amortization of goodwill and certain other intangibles, is modified
10 as follows:

11 (a) (1) Section 13261(g) of the Revenue Reconciliation Act of
12 1993 (~~P.L.~~ (Public Law 103-66), relating to effective dates, shall
13 apply, except as otherwise provided.

14 (2) (A) If a taxpayer has, at any time, made an election for
15 federal *income tax* purposes under Section 13261(g)(2) of the
16 Revenue Reconciliation Act of 1993 (~~P.L.~~ (Public Law 103-66),
17 relating to election to have amendments apply to property acquired
18 after July 25, 1991, or Section 13261(g)(3) of that act, relating to
19 elective binding contract exception, a separate election for state
20 purposes shall not be allowed under paragraph (3) of subdivision
21 (e) of Section 17024.5 and the federal election shall be binding for
22 purposes of this part.

23 (B) If a taxpayer has not made an election for federal *income*
24 *tax* purposes under Section 13261(g)(2) of the Revenue
25 Reconciliation Act of 1993 (~~P.L.~~ (Public Law 103-66), relating to
26 election to have amendments apply to property acquired after July
27 25, 1991, or Section 13261(g)(3) of that act, relating to elective
28 binding contract exception, with respect to property acquired
29 before August 11, 1993, then the taxpayer shall not be allowed to
30 make an election under Section 13261(g) of the Revenue
31 Reconciliation Act of 1993 (~~P.L.~~ (Public Law 103-66), for
32 purposes of this part, with respect to that property.

33 (b) Notwithstanding any other provision of this section, each of
34 the following shall apply:

35 (1) No deduction shall be allowed under this section for any
36 taxable year beginning prior to January 1, 1994.

37 (2) No inference is intended with respect to the allowance or
38 denial of any deduction for amortization in any taxable year
39 beginning before January 1, 1994.

(3) In the case of an intangible that was acquired in a taxable year beginning before January 1, 1994, the amount to be amortized shall not exceed the adjusted basis of that intangible as of the first day of the first taxable year beginning on or after January 1, 1994, and that amount shall be amortized ratably over the period beginning with the first month of the first taxable year beginning on or after January 1, 1994, and ending 15 years after the month in which the intangible was acquired.

SEC. 15. Section 17279.4 of the Revenue and Taxation Code is amended to read:

17279.4. Section 198 of the Internal Revenue Code, relating to expensing of environmental remediation costs, is modified as follows:

(a) (1) If a taxpayer has, at any time, made an election for federal *income tax* purposes under Section 198(a) of the Internal Revenue Code to have Section 198 of the Internal Revenue Code apply to a qualified environmental remediation expenditure, Section 198 of the Internal Revenue Code shall apply to that qualified environmental remediation expenditure for state purposes, a separate election for state purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 17024.5,~~ and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make an election for federal *income tax* purposes under Section 198(a) of the Internal Revenue Code to have Section 198 of the Internal Revenue Code apply to a qualified environmental remediation expenditure, an election under Section 198(a) of the Internal Revenue Code shall not be allowed for state purposes, Section 198 of the Internal Revenue Code shall not apply to that qualified environmental remediation expenditure for state purposes, and a separate election for state purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 17024.5.~~

(b) No inference as to the proper treatment for purposes of this part of qualified environmental remediation expenditures for periods before the enactment of this section shall be made.

SEC. 16. Section 17501 of the Revenue and Taxation Code is amended to read:

17501. (a) Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to deferred compensation, shall apply, except as otherwise provided.

1 (b) Notwithstanding Section 17024.5, Part I of Subchapter D
2 of Chapter 1 of Subtitle A of the Internal Revenue Code, relating
3 to pension, profit sharing, stock bonus plans, etc., shall apply,
4 except as otherwise provided, without regard to taxable year to the
5 same extent as applicable for federal purposes.

6 (c) The maximum amount of elective deferrals (as defined in
7 Section 402(g)(3)) for the taxable year that may be excluded from
8 gross income under Section 403(g) of the Internal Revenue Code,
9 as applicable for state purposes, shall not exceed the amount of
10 elective deferrals that may be excluded from gross income under
11 Section 402(g) of the Internal Revenue Code, as amended by Title
12 VI of the Economic Growth and Tax Relief Reconciliation Act of
13 2001 (Public Law 107-16), including additional elective deferrals
14 under Section 414(v) of the Internal Revenue Code, as added by
15 Title VI of the Economic Growth and Tax Relief Reconciliation Act
16 of 2001 (Public Law 107-16).

17 (d) (1) For taxable years beginning on or after January 1,
18 2002, the basis of any person in the plan, account, or annuity shall
19 be increased by the amount of elective deferrals not excluded as a
20 result of the application of subdivision (c).

21 (2) Any basis described in paragraph (1) shall be recovered in
22 the manner specified in Section 17085.

23 (e) Notwithstanding the limitations provided in subdivision (c),
24 any income attributable to elective deferrals in taxable years
25 beginning on or after January 1, 2002, in conformance with Part
26 I of Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue
27 Code, as applicable for federal and state purposes, shall not be
28 includible in the gross income of the individual for whose benefit
29 the plan or account was established until distributed pursuant to
30 the provisions of the plan or by operation of law.

31 SEC. 17. Section 17551 of the Revenue and Taxation Code is
32 amended to read:

33 17551. (a) Subchapter E of Chapter 1 of Subtitle A of the
34 Internal Revenue Code, relating to accounting periods and
35 methods of accounting, shall apply, except as otherwise provided.

36 (b) Section 444(c)(1) of the Internal Revenue Code, relating to
37 effect of election, shall not apply.

38 (c) (1) Notwithstanding Section 17024.5, Section 457 of the
39 Internal Revenue Code, relating to deferred compensation plans
40 of state and local governments and tax- exempt organizations,

shall apply, except as otherwise provided, without regard to taxable year to the same extent as applicable for federal purposes.

(2) The maximum deferred compensation for the taxable year that may be excluded from gross income under Section 457 of the Internal Revenue Code shall not exceed the amount of deferred compensation that may be excluded from gross income under Section 457 of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), including additional elective deferrals under Section 414(v) of the Internal Revenue Code, as added by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16).

(d) (1) For taxable years beginning on or after January 1, 2002, the basis of any person in the plan shall be increased by the amount of compensation not allowed to be excluded under subdivision (a).

(2) Any basis described in paragraph (1) shall be recovered in the manner specified in Section 17085.

(e) Notwithstanding the limitations provided in subdivision (a), any income attributable to compensation deferred in a plan in taxable years beginning on or after January 1, 2002, in conformance with Section 457 of the Internal Revenue Code, as applicable for federal and state purposes, shall not be includable in the gross income of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law.

SEC. 18. Section 17570 of the Revenue and Taxation Code is amended to read:

17570. (a) For each taxable year beginning on or after January 1, 1997, Section 475 of the Internal Revenue Code, relating to mark to market accounting method for securities dealers, shall apply, except as otherwise provided.

(b) Section 13233(c)(2)(C) of the Revenue Reconciliation Act of 1993-~~PL~~ (Public Law 103-66), relating to the effective date for changes in the mark to market accounting method for securities dealers, is modified to provide that the amount taken into account under Section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the five-taxable-year period beginning with the first taxable year beginning on or after January 1, 1997.

(c) (1) If a taxpayer has, at any time, made an election for federal *income tax* purposes under Section 475(e) of the Internal Revenue Code, relating to election of mark to market for dealers in commodities, to have Section 475 of the Internal Revenue Code apply, Section 475 of the Internal Revenue Code shall apply to that dealer in commodities for state purposes, a separate election for state purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 17024.5~~; and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal *income tax* purposes under Section 475(e) of the Internal Revenue Code, relating to election of mark to market for dealers in commodities, to have Section 475 of the Internal Revenue Code apply, an election under Section 475(e) of the Internal Revenue Code shall not be allowed for state purposes, Section 475 of the Internal Revenue Code shall not apply to that dealer in commodities for state purposes, and a separate election for state purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 17024.5~~.

(d) (1) If a taxpayer has, at any time, made an election for federal *income tax* purposes under Section 475(f)(1) of the Internal Revenue Code, relating to election of mark to market for traders in securities, to have Section 475 of the Internal Revenue Code apply to a trade or business, Section 475 of the Internal Revenue Code shall apply to that trader in securities for state purposes with respect to that trade or business, a separate election for state purposes with respect to that trade or business shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 17024.5~~; and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal *income tax* purposes under Section 475(f)(1) of the Internal Revenue Code, relating to election of mark to market for traders in securities, to have Section 475 of the Internal Revenue Code apply to a trade or business, an election under Section 475(f)(1) of the Internal Revenue Code shall not be allowed for state purposes with respect to that trade or business, Section 475 of the Internal Revenue Code shall not apply to that trader in securities for state purposes with respect to that trade or business, and a separate election for state purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 17024.5~~.

1 (e) (1) If a taxpayer has, at any time, made an election for
 2 federal *income tax* purposes under Section 475(f)(2) of the
 3 Internal Revenue Code, relating to election of mark to market for
 4 traders in commodities, to have Section 475 of the Internal
 5 Revenue Code apply to a trade or business, Section 475 of the
 6 Internal Revenue Code shall apply to that trader in commodities
 7 for state purposes with respect to that trade or business, a separate
 8 election for state purposes with respect to that trade or business
 9 shall not be allowed ~~under paragraph (3) of subdivision (e) of~~
 10 ~~Section 17024.5~~, and the federal election with respect to that trade
 11 or business shall be binding for purposes of this part.

12 (2) If a taxpayer fails to make, or has not previously made, an
 13 election for federal *income tax* purposes under Section 475(f)(2)
 14 of the Internal Revenue Code, relating to election of mark to
 15 market for traders in commodities, to have Section 475 of the
 16 Internal Revenue Code apply to a trade or business, an election
 17 under Section 475(f)(2) of the Internal Revenue Code shall not be
 18 allowed for state purposes with respect to that trade or business,
 19 Section 475 of the Internal Revenue Code shall not apply to that
 20 trader in commodities for state purposes with respect to that trade
 21 or business, and a separate election for state purposes with respect
 22 to that trade or business shall not be allowed ~~under paragraph (3)~~
 23 ~~of subdivision (e) of Section 17024.5~~.

24 (f) (1) An election under Section 475(e) or (f) of the Internal
 25 Revenue Code made for federal *income tax* purposes with respect
 26 to a taxable year beginning before January 1, 1998, shall be treated
 27 as having been made for state purposes with respect to the first
 28 taxable year beginning on or after January 1, 1998.

29 (2) Section 1001(d)(4)(B) of the Taxpayer Relief Act of 1997
 30 ~~(P.L. (Public Law 105-34)~~, relating to the effective date for
 31 election of mark to market by securities traders and traders and
 32 dealers in commodities, is modified to provide that the
 33 requirement for timely identification shall be treated as timely
 34 made for state purposes if that identification is treated as timely
 35 made for federal *income tax* purposes, and the amount taken into
 36 account under Section 481 of the Internal Revenue Code of 1986
 37 shall be taken into account ratably over the four-taxable-year
 38 period beginning with the first taxable year beginning on or after
 39 January 1, 1998.

1 *SEC. 19. Section 17751 of the Revenue and Taxation Code is*
2 *amended to read:*

3 17751. Section 646 of the Internal Revenue Code, relating to
4 certain revocable trusts treated as part of estate, is modified as
5 follows:

6 (a) An election under Section 646(a) of the Internal Revenue
7 Code for federal *income tax* purposes shall be treated for purposes
8 of this part as an election made by the executor, if any, of the estate
9 and the trustee of the qualified revocable trust under Section
10 646(a) of the Internal Revenue Code for state purposes and a
11 separate election ~~under paragraph (3) of subdivision (e) of Section~~
12 ~~17024.5~~ shall not be allowed.

13 (b) If the executor, if any, of the estate and the trustee of a
14 qualified revocable trust fail to make an election under Section
15 646(a) of the Internal Revenue Code for federal *income tax*
16 purposes with respect to that qualified revocable trust, that trust
17 shall be treated and taxed for purposes of this part as a separate
18 trust, an election under Section 646(a) of the Internal Revenue
19 Code for state purposes with respect to that trust shall not be
20 allowed, and a separate election ~~under paragraph (3) of~~
21 ~~subdivision (e) of Section 17024.5~~ shall not be allowed with
22 respect to that trust.

23 *SEC. 20. Section 17752 of the Revenue and Taxation Code is*
24 *amended to read:*

25 17752. Section 663 of the Internal Revenue Code, relating to
26 special rules applicable to Sections 661 and 662, is modified as
27 follows:

28 (a) Section 663(b) of the Internal Revenue Code, relating to
29 distributions in the first 65 days of the taxable year, is modified as
30 follows:

31 (1) An election under Section 663(b) of the Internal Revenue
32 Code for federal *income tax* purposes shall be treated for purposes
33 of this part as an election made by the executor of the estate or the
34 fiduciary of the trust, as the case may be, under Section 663(b) of
35 the Internal Revenue Code for state purposes and a separate
36 election ~~under paragraph (3) of subdivision (e) of Section 17024.5~~
37 shall not be allowed.

38 (2) If the executor of the estate or the fiduciary of the trust, as
39 the case may be, fails to make an election under Section 663(b) of
40 the Internal Revenue Code for federal *income tax* purposes with

respect to an amount properly paid or credited within 65 days of the taxable year, that amount shall not be considered for purposes of this part as having been paid or credited on the last day of the preceding taxable year, an election under Section 663(b) of the Internal Revenue Code for state purposes with respect to that amount shall not be allowed, and a separate election ~~under paragraph (3) of subdivision (e) of Section 17024.5~~ shall not be allowed with respect to that amount.

(b) Section 663(c) of the Internal Revenue Code, relating to separate shares treated as separate estates or trusts, is modified as follows:

(1) An election under Section 663(c) of the Internal Revenue Code for federal *income tax* purposes shall be treated for purposes of this part as an election made by the executor of the estate or the fiduciary of the trust, as the case may be, under Section 663(c) of the Internal Revenue Code for state purposes and a separate election ~~under paragraph (3) of subdivision (e) of Section 17024.5~~ shall not be allowed.

(2) If the executor of the estate or the fiduciary of the trust, as the case may be, fails to make an election under Section 663(c) of the Internal Revenue Code for federal *income tax* purposes with respect to separate shares treated as separate estates or trusts, an election under Section 663(c) of the Internal Revenue Code for state purposes shall not be allowed, and a separate election ~~under paragraph (3) of subdivision (e) of Section 17024.5~~ shall not be allowed.

SEC. 21. *Section 17760.5 of the Revenue and Taxation Code is amended to read:*

17760.5. Section 685 of the Internal Revenue Code, relating to treatment of funeral trusts, is modified as follows:

(a) Section 685(a) of the Internal Revenue Code is modified to read: In the case of a qualified funeral trust—

(1) Subparts B, C, D, and E of Subchapter J of Chapter 1 of Subtitle A of the Internal Revenue Code shall not apply.

(2) No credit for personal exemption shall be allowed under Section 17054 or Section 17733.

(b) Section 685(b) of the Internal Revenue Code is modified as follows:

(1) An election under Section 685(b)(5) of the Internal Revenue Code for federal *income tax* purposes shall be treated for

1 purposes of this part as an election made by the trustee of the
2 qualified funeral trust under Section 685(b)(5) of the Internal
3 Revenue Code for state purposes and a separate election ~~under~~
4 ~~paragraph (3) of subdivision (e) of Section 17024.5~~ shall not be
5 allowed.

6 (2) If the trustee of a qualified funeral trust fails to make an
7 election under Section 685(b)(5) of the Internal Revenue Code for
8 federal *income tax* purposes with respect to a qualified funeral
9 trust, that trust shall be treated for purposes of this part as owned
10 under Subpart E of the Internal Revenue Code by the purchasers
11 of the contracts described in Section 685(b)(1) of the Internal
12 Revenue Code, an election under Section 685(b)(5) of the Internal
13 Revenue Code for state purposes with respect to that trust shall not
14 be allowed, and a separate election ~~under paragraph (3) of~~
15 ~~subdivision (e) of Section 17024.5~~ shall not be allowed with
16 respect to that trust.

17 (c) Section 685(d) of the Internal Revenue Code is modified to
18 read: Subdivision (e) of Section 17041 shall be applied to each
19 qualified funeral trust by treating each beneficiary's interest in
20 each qualified funeral trust as a separate trust.

21 (d) The Franchise Tax Board may, by forms and instructions,
22 provide rules for simplified reporting of all trusts having a single
23 trustee consistent with the rules prescribed by the Secretary of the
24 Treasury under Section 685 of the Internal Revenue Code.

25 (e) This section shall apply to taxable years ending after August
26 5, 1997.

27 (f) The amendments made to this section by the act adding this
28 subdivision shall apply to taxable years beginning on or after
29 January 1, 1998.

30 *SEC. 22. Section 19136 of the Revenue and Taxation Code is*
31 *amended to read:*

32 19136. (a) Section 6654 of the Internal Revenue Code,
33 relating to failure by an individual to pay estimated income tax,
34 shall apply, except as otherwise provided.

35 (b) Section 6654(a)(1) of the Internal Revenue Code is
36 modified to refer to the rate determined under Section 19521 in
37 lieu of Section 6621 of the Internal Revenue Code.

38 (c) ~~(1) For purposes of Section 6654(d) of the Internal~~
39 ~~Revenue Code, relating to the amount of required installments,~~
40 ~~any reference to "90 percent" is modified to read "80 percent."~~

~~(2) Section 6654(d)(2)(C)(ii) of the Internal Revenue Code, relating to applicable percentages, is modified as follows:~~

In the case of the following	The applicable
required installments:	percentage is:
1st	20
2nd	40
3rd	60
4th	80

~~(3) The annualized income installment, determined under Section 6654(d)(2) of the Internal Revenue Code, shall not include “alternative minimum taxable income” or “adjusted self-employment income.”~~

~~(d)(1) Section 6654(e)(1) of the Internal Revenue Code, relating to exceptions where the tax is a small amount, shall not apply.~~

~~(2) No addition to the tax shall be imposed under this section if any of the following applies:~~

~~(A) The tax imposed under Section 17041 or 17048 for the preceding taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, or the tax computed under Section 17041 or 17048 upon the estimated income for the taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, is less than two hundred dollars (\$200), except in the case of a separate return filed by a married person the amount shall be less than one hundred dollars (\$100).~~

~~(B) Eighty percent or more of the tax imposed under Section 17041 or 17048 for the preceding taxable year, less any credits against the tax other than the credit allowed under Section 19002, was paid by withholding pursuant to Section 18662 or 18666 of this code or Section 13020 of the Unemployment Insurance Code.~~

~~(C) Eighty percent or more of the estimated tax for the taxable year will be paid by withholding of tax pursuant to Section 18662 or 18666 of this code or Section 13020 of the Unemployment Insurance Code.~~

~~(D) Eighty percent or more of the adjusted gross income for the taxable year consists of items subject to withholding pursuant to~~

~~Section 18662 or 18666 of this code or Section 13020 of the Unemployment Insurance Code.~~

~~(3) Paragraph (2) shall not apply if the employee files a false or fraudulent withholding exemption certificate for the taxable year, or the taxpayer provides a false or fraudulent document or documents to obtain reduced withholding at source for the taxable year.~~

~~(e)–~~

~~(d) Section 6654(f) of the Internal Revenue Code shall not apply and for purposes of this section the term “tax” means the tax imposed under Section 17041 or 17048, less any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, other than the credit provided by subdivision (a) of Section 19002.~~

~~(f)–~~

~~(e) The credit for tax withheld on wages, as specified in Section 6654(g) of the Internal Revenue Code, shall be the credit allowed under subdivision (a) of Section 19002.~~

~~(g)–~~

~~(f) This section shall apply to a nonresident individual.~~

~~(h) No addition to tax shall be made under this section for any period before April 16, 1999, with respect to any underpayment of an installment for the 1998 taxable year, to the extent that the underpayment was created or increased as the result of a distribution to which Section 408A(d)(3) of the Internal Revenue Code, relating to rollovers from an IRA other than a Roth IRA, applies.~~

SEC. 23. Section 19136.8 is added to the Revenue and Taxation Code, to read:

19136.8. (a) No addition to tax shall be made under Section 19136 for any period before April 15, 2003, with respect to any underpayment of an installment for the 2002 taxable year, to the extent that the underpayment was created or increased by any provision of the act adding this section.

(b) No addition of tax shall be made under Section 19142 for any period before April 15, 2003, with respect to any underpayment of an installment for the 2002 taxable year, to the extent that the underpayment was created or increased by any provision of the act adding this section.

(c) *The Franchise Tax Board shall implement this section in a reasonable manner.*

SEC. 24. *Section 19365 of the Revenue and Taxation Code is amended to read:*

19365. (a) (1) A corporation ~~electing to be~~ *that is* treated as an “S corporation” *for a taxable year beginning in 2002* under Chapter 4.5 (commencing with Section 23800) of Part 11 may file an application for the transfer of an overpayment with respect to payments of estimated tax for taxable years beginning in ~~1997~~ *2002* to the personal income tax accounts of its shareholders. An application under this subdivision shall not constitute a claim for credit or refund.

(2) An application under this subdivision shall be verified in the manner prescribed by Section 18621 in the case of the taxpayer, and shall be filed in the manner and form prescribed by the Franchise Tax Board. The application shall set forth all of the following:

(A) The amount the “S corporation” estimates as its tax liability under this part for the taxable year, which shall not be less than the greater of 1½ percent of its net income or the applicable minimum franchise tax.

(B) The amount and date of the estimated tax paid during the taxable year.

(C) For each shareholder affected, his or her name, social security account number, address, and percentage of ownership, and any changes in that percentage of ownership for the S corporation’s taxable year, the amount of each overpayment to be transferred, and the date the amount was paid.

(D) Any other information for purposes of carrying out this section as may be required by the Franchise Tax Board.

(b) (1) Within a period of 45 days from the date on which an application for a transfer is filed under subdivision (a), the Franchise Tax Board shall make, to the extent it deems practicable in that period, a limited examination of the application to discover omissions and errors therein, and shall determine the final amount of the transfers upon the basis of the application and the examination, except that the Franchise Tax Board may disallow, without further action, any application which it finds contains material omissions or errors which it deems cannot be corrected within the 45-day period.

(2) The Franchise Tax Board, within the 45-day period referred to in paragraph (1), may credit the amount of the overpayment against any liability on the part of the taxpayer under Part 11 (commencing with Section 23001).

(3) In the event the amount available for transfer is less than requested by the taxpayer, the overpayment amount shall be allocated among the shareholders on a pro rata basis based on their percentage of ownership stated on the application.

(4) For purposes of Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), and this part, the transferred amounts shall be treated as if they had been estimated tax payments paid by the respective shareholders on the date originally paid by the corporation.

(5) No application under subdivision (a) shall be allowed unless the amount to be transferred equals or exceeds five hundred dollars (\$500).

(6) Each S corporation which files an application for transfer of overpayments under subdivision (a) shall furnish to each person who is a shareholder at any time during the taxable year a statement showing amounts and dates of the overpayments being transferred to that person's personal income tax account.

SEC. 25. Section 23038.5 of the Revenue and Taxation Code is amended to read:

23038.5. (a) Section 7704 of the Internal Revenue Code, relating to certain publicly traded partnerships treated as corporations, shall apply, except as otherwise provided.

(b) (1) Section 7704(a) of the Internal Revenue Code shall not apply to an electing 1987 partnership.

(2) For purposes of this subdivision, the term "electing 1987 partnership" means any publicly traded partnership if all of the following apply:

(A) The partnership is an existing partnership (as defined in Section 10211(c)(2) of the Revenue Reconciliation Act of 1987).

(B) Section 7704(a) of the Internal Revenue Code has not applied (and without regard to Section 7704(c)(1) of the Internal Revenue Code would not have applied) to that partnership for all prior taxable years beginning after December 31, 1987, and before January 1, 1998.

(C) (i) The partnership has made the election under Section 7704(g)(1)(C) of the Internal Revenue Code (as added by Public Law 105-34) for federal *income* tax purposes.

(ii) The election for federal *income* tax purposes described in clause (i) shall be treated as a binding election and a separate election for state tax purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 23051.5.~~

(iii) The election for federal *income* tax purposes described in clause (i) shall be treated as a binding consent to the application of the tax imposed under paragraph (3) and a separate election for state tax purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 23051.5.~~

(D) A partnership which, but for this subparagraph, would be treated as an electing 1987 partnership shall cease to be so treated (and the election under subparagraph (C) shall cease to be in effect) as of the first day after December 31, 1997, that the partnership is no longer treated as an electing 1987 partnership for federal tax purposes (and the election under Section 7704(g)(1)(C) of the Internal Revenue Code (as added by Public Law 105-34) ceases to be in effect for federal *income* tax purposes).

(3) (A) There is hereby imposed for each taxable year beginning on or after January 1, 1998, on the gross income of each electing 1987 partnership a tax equal to 1 percent of that partnership's gross income from all sources reportable to this state, taking into account Section 25101 and any election under Section 25110, attributable to the active conduct of trades and businesses by the partnership.

(B) The tax shall be due and payable on the date the return of the partnership is required to be filed under Section 18633, shall be collected and refunded in the same manner as other taxes imposed by this part, and shall be subject to interest and applicable penalties.

(C) For purposes of this paragraph, if a partnership is a partner in another partnership, the gross income referred to in subparagraph (A) shall include the partnership's distributive share of the gross income of the other partnership from all sources reportable to this state, taking into account Section 25101 and any election under Section 25110, attributable to the active conduct of trades and businesses of that other partnership. A similar rule shall apply in the case of lower-tiered partnerships.

(D) The tax imposed by this paragraph shall be treated as imposed by this part other than for purposes of determining the amount of any credit allowable under this part.

(4) The provisions of this subdivision shall apply to the taxable year for which the election described in clause (i) of subparagraph (C) of paragraph (2) is made for federal *income tax* purposes and all subsequent taxable years unless revoked by the partnership for federal *income tax* purposes. Any revocation made for federal *income tax* purposes shall be treated as a binding revocation under this part, but, once so revoked, may not be reinstated and a separate revocation for state purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 23051.5.~~

(c) The amendment made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

SEC. 26. Section 23051.5 of the Revenue and Taxation Code is amended to read:

23051.5. (a) (1) Unless otherwise specifically provided, the terms “Internal Revenue Code,” “Internal Revenue Code of 1954,” or “Internal Revenue Code of 1986,” for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto, as enacted on the specified date for the applicable taxable year as defined in paragraph (1) of subdivision (a) of Section 17024.5.

(2) Unless otherwise specifically provided, for federal laws enacted on or after January 1, 1987, and on or before the specified date for the taxable year, uncodified provisions that relate to provisions of the Internal Revenue Code that are incorporated for purposes of this part, shall be applicable to the same taxable years as the incorporated provisions.

(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle H (Repeal of Expired or Obsolete Provisions) of the Revenue Reconciliation Act of 1990 (Public Law 101-508) modified numerous provisions of the Internal Revenue Code and provisions of prior federal acts, some of which are incorporated by reference into this part. Unless otherwise provided, the provisions described in the preceding sentence, to the extent that they modify provisions that are incorporated into this part, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the Revenue Reconciliation Act of 1990.

(b) Unless otherwise specifically provided, when applying the Internal Revenue Code for purposes of this part, a reference to any of the following shall not be applicable for purposes of this part:

(1) Domestic International Sales Corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(2) Foreign Sales Corporations (FSC), as defined in Section 922(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust as defined in Section 679 of the Internal Revenue Code.

(7) Foreign income taxes and foreign income tax credits.

(8) Federal tax credits and carryovers of federal tax credits.

(c) (1) The provisions contained in Sections 41 to 44, inclusive, and Section 172 of the Tax Reform Act of 1984 (Public Law 98-369), relating to treatment of debt instruments, shall not be applicable for taxable years beginning before January 1, 1987.

(2) The provisions contained in Public Law 99-121, relating to the treatment of debt instruments, shall not be applicable for taxable years beginning before January 1, 1987.

(3) For taxable years beginning on and after January 1, 1987, the provisions referred to by paragraphs (1) and (2) shall be applicable for purposes of this part in the same manner and with respect to the same obligations as the federal provisions, except as otherwise provided in this part.

(d) When applying the Internal Revenue Code for purposes of this part, regulations promulgated in final form or issued as temporary regulations by “the secretary” shall be applicable as regulations issued under this part to the extent that they do not conflict with this part or with regulations issued by the Franchise Tax Board.

(e) Whenever this part allows a taxpayer to make an election *on or after January 1, 2002, in taxable years beginning on or after January 1, 2002*, the following rules shall apply:

(1) A proper election *for federal income tax purposes* filed with the Internal Revenue Service in accordance with the Internal

1 Revenue Code or regulations issued by “the secretary” shall be
2 ~~deemed to be a proper~~ *treated as an election* for purposes of this
3 ~~part and a separate election for state purposes shall not be~~
4 ~~allowed~~, unless otherwise expressly provided in this part or in
5 regulations issued by the Franchise Tax Board.

6 (2) A copy of that election shall be furnished to the Franchise
7 Tax Board upon request.

8 ~~(3) To obtain treatment other than that elected for federal~~
9 ~~purposes, a separate election shall be filed with the Franchise Tax~~
10 ~~Board at the time and in the manner which may be required by the~~
11 ~~Franchise Tax Board. If the taxpayer does not make a proper~~
12 ~~election for federal income tax purposes a separate election for~~
13 ~~purposes of this part shall not be allowed, unless otherwise~~
14 ~~provided.~~

15 (f) Whenever this part allows or requires a taxpayer to file an
16 application or seek consent, the rules set forth in subdivision (e)
17 shall apply to that application or consent.

18 (g) When applying the Internal Revenue Code for purposes of
19 determining the statute of limitations under this part, any reference
20 to a period of three years shall be modified to read four years for
21 purposes of this part.

22 (h) When applying, for purposes of this part, any section of the
23 Internal Revenue Code or any applicable regulation thereunder, all
24 of the following shall apply:

25 (1) For purposes of Chapter 2 (commencing with Section
26 23101), Chapter 2.5 (commencing with Section 23400), and
27 Chapter 3 (commencing with Section 23501), the term “taxable
28 income” shall mean “net income.”

29 (2) For purposes of Article 2 (commencing with Section
30 23731) of Chapter 4, the term “taxable income” shall mean
31 “unrelated business taxable income,” as defined by Section
32 23732.

33 (3) Any reference to “subtitle,” “Chapter 1,” or “chapter”
34 shall mean this part.

35 (4) The provisions of Section 7806 of the Internal Revenue
36 Code, relating to construction of title, shall apply.

37 (5) Any provision of the Internal Revenue Code that becomes
38 operative on or after the specified date for that taxable year shall
39 become operative on the same date for purposes of this part.

(6) Any provision of the Internal Revenue Code that becomes inoperative on or after the specified date for that taxable year shall become inoperative on the same date for purposes of this part.

(7) Due account shall be made for differences in federal and state terminology, effective dates, substitution of “Franchise Tax Board” for “secretary” when appropriate, and other obvious differences.

(8) Any provision of the Internal Revenue Code that refers to a “corporation” shall, when applicable for purposes of this part, include a “bank,” as defined by Section 23039.

(i) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

SEC. 27. Section 23456 of the Revenue and Taxation Code is amended to read:

23456. For purposes of this part, Section 56 of the Internal Revenue Code is modified as follows:

(a) (1) Section 56(a)(2) of the Internal Revenue Code, relating to mining exploration and development costs, shall apply only to expenses incurred during taxable years beginning on or after January 1, 1988.

(2) Section 56(a)(5) of the Internal Revenue Code, relating to pollution control facilities, shall apply only to amounts allowable as a deduction under Section 24372.3.

(3) (A) Section 56(a)(6) of the Internal Revenue Code, as in effect on January 1, 1997, relating to installment sales of certain property, shall not apply to payments received in taxable years beginning on or after January 1, 1997, with respect to dispositions occurring in taxable years beginning after December 31, 1987.

(B) This paragraph shall not apply to any taxable year beginning on or after January 1, 1998.

(b) For purposes of applying Section 56(d) of the Internal Revenue Code, all references to “December 31, 1986,” are modified to read “December 31, 1987,” and all references to “January 1, 1987,” are modified to read “January 1, 1988.”

(c) Section 56(d)(1) of the Internal Revenue Code, relating to the alternative tax net operating loss deduction, is modified to include the provisions of Section 25108.

(d) For each taxable year beginning on or after January 1, 1988, and before January 1, 1990, Section 56(f)(2)(E) of the Internal

1 Revenue Code, as it read during that period, is modified to refer
2 to both of the following:

3 (1) Cooperatives under Section 24404 in lieu of the deduction
4 allowed under Section 1382(b) of the Internal Revenue Code.

5 (2) Credit unions under Section 24405 as though the deduction
6 allowed under Section 1382(b) of the Internal Revenue Code
7 applied to credit unions.

8 (e) Section 56(g) of the Internal Revenue Code, relating to
9 adjustments based on adjusted current earnings, is modified to
10 provide that for corporations whose income is determined under
11 Chapter 17 (commencing with Section 25101), adjusted current
12 earnings shall be allocated and apportioned in the same manner as
13 net income is allocated and apportioned for purposes of the regular
14 tax. In addition, each of the following shall apply:

15 (1) Sections 56(g)(1)(A) and 56(g)(3) of the Internal Revenue
16 Code are modified to provide that the term “adjusted current
17 earnings” means the sum of the adjusted current earnings of that
18 corporation apportionable to this state and the adjusted current
19 earnings allocable to this state.

20 (2) Section 56(g)(1)(B) of the Internal Revenue Code is
21 modified to provide that the term “alternative minimum taxable
22 income” means the sum of the alternative minimum taxable
23 income of that corporation apportionable to this state and the
24 alternative minimum taxable income allocable to this state.

25 (f) Section 56(g)(4)(A) of the Internal Revenue Code is
26 modified to provide the following:

27 (1) In the case of any property placed in service on or after
28 January 1, 1981, and prior to January 1, 1987, other than
29 residential rental property for which an election was made under
30 former Section 24349.5, the amount allowable as depreciation or
31 amortization with respect to that property shall be the same amount
32 that would have been allowable for the taxable year had the
33 taxpayer depreciated the property under the straight line method
34 for each taxable year of the useful life (determined without regard
35 to Section 24354.2) for which the taxpayer has held the property.

36 (2) In the case of any property placed in service on or after
37 January 1, 1987, and prior to January 1, 1990, other than
38 residential rental property for which an election was made under
39 former Section 24349.5, the amount allowable as depreciation or



1 amortization with respect to that property shall be determined by
2 each of the following:

3 (A) Taking into account the adjusted basis of that property (as
4 determined for purposes of computing alternative minimum
5 taxable income) as of the close of the last taxable year beginning
6 before January 1, 1990.

7 (B) Using the straight line method over the remainder of the
8 recovery period applicable to that property under the alternative
9 system of Section 168(g) of the Internal Revenue Code.

10 (3) The amendments made to paragraph (2) by the act adding
11 this paragraph shall apply to taxable years beginning on or after
12 January 1, 1990.

13 (4) The last sentence of Section 56(g)(4)(A)(i) of the Internal
14 Revenue Code, shall not apply to taxable years beginning before
15 January 1, 1998.

16 (g) (1) Section 56(g)(4)(C) of the Internal Revenue Code,
17 relating to disallowance of items not deductible in computing
18 earnings and profits, shall be modified as follows:

19 (A) (i) A deduction shall be allowed for amounts allowable as
20 a deduction for purposes of the regular tax under Sections 24402,
21 24410, 24411, and 25106.

22 (ii) For each taxable year beginning on or after January 1, 1990,
23 a deduction shall be allowed for amounts allowable as a deduction
24 to a credit union for purposes of the regular tax under Section
25 24405.

26 (B) Section 56(g)(4)(C)(ii) of the Internal Revenue Code,
27 relating to special rule for 100-percent dividends, shall not be
28 applicable.

29 (C) Section 56(g)(4)(C)(iii) of the Internal Revenue Code,
30 relating to special rule for dividends from Section 936 companies,
31 shall not be applicable.

32 (D) Section 56(g)(4)(C)(iv) of the Internal Revenue Code,
33 relating to special rule for certain dividends received by certain
34 cooperatives, shall not be applicable.

35 (2) Section 56(g)(4)(D)(ii) of the Internal Revenue Code is
36 modified to specify that Sections 24364 and 24407 shall not apply
37 to expenditures paid or incurred in taxable years beginning on or
38 after January 1, 1990.

39 (3) With respect to corporations which are not subject to the tax
40 imposed under Chapter 2 (commencing with Section 23101), the

1 amount of interest income included in the adjusted current
2 earnings shall not exceed the amount of interest income included
3 for purposes of the regular tax.

4 (4) Appropriate adjustments shall be made to limit deductions
5 from adjusted current earnings for interest expense in accordance
6 with the provisions of Sections 24344 and 24425.

7 ~~(h) Section 56(g)(4)(I) of the Internal Revenue Code, relating~~
8 ~~to treatment of charitable contributions, shall not apply.~~

9 SEC. 28. *Section 23457 of the Revenue and Taxation Code is*
10 *amended to read:*

11 23457. For purposes of this part, Section 57 of the Internal
12 Revenue Code is modified as follows:

13 (a) Section 57(a)(5) of the Internal Revenue Code, relating to
14 tax-exempt interest, shall not be applicable.

15 ~~(b) (1) (A) Section 57(a) of the Internal Revenue Code,~~
16 ~~relating to items of tax preference, is modified to include as an item~~
17 ~~of tax preference the amount by which the deduction allowable~~
18 ~~under Section 24357 would be reduced if all capital gain property~~
19 ~~were taken into account at its adjusted basis.~~

20 ~~(B) For purposes of paragraph (A), “capital gain property”~~
21 ~~means, with respect to any contribution, any capital asset the sale~~
22 ~~of which at its fair market value at the time of the contribution~~
23 ~~would have resulted in gain which would have been long term~~
24 ~~capital gain. For purposes of this subparagraph, any property that~~
25 ~~is property used in the trade or business, as defined in Section~~
26 ~~1231(b) of the Internal Revenue Code, shall be treated as a capital~~
27 ~~asset.~~

28 ~~(2) Section 57(a) of the Internal Revenue Code, relating to~~
29 ~~items of tax preference, is modified to include as an item of tax~~
30 ~~preference the amount by which the deduction allowable under~~
31 ~~Section 24348 for the taxable year for a reasonable addition to a~~
32 ~~reserve for bad debts exceeds the amount that would have been~~
33 ~~allowable had the taxpayer maintained its bad debt reserve for all~~
34 ~~taxable years on the basis of actual experience.~~

35 (c) Section 57(a)(6) of the Internal Revenue Code, relating to
36 accelerated depreciation or amortization on certain property
37 placed in service before January 1, 1987, is modified to read: With
38 respect to each property as described in Section 1250(c) of the
39 Internal Revenue Code as that provision read on April 1, 1970, the
40 amount by which the deduction allowable for the taxable year for

1 exhaustion, wear, tear, obsolescence, or amortization exceeds the
2 depreciation deduction which would have been allowable for the
3 taxable year, had the taxpayer depreciated the property under the
4 straight line method for each taxable year of its useful life
5 (determined without regard to Section 24354.2 or 24381) for
6 which the taxpayer has held the property.

7 *SEC. 29. Section 23701s of the Revenue and Taxation Code is*
8 *amended to read:*

9 23701s. (a) An employee-funded pension trust described in
10 Section 501(c)(18) of the Internal Revenue Code, except as
11 otherwise provided.

12 (b) The last sentence in Section 501(c)(18) of the Internal
13 Revenue Code, *as amended by Title VI of the Economic Growth*
14 *and Tax Relief Reconciliation Act of 2001 (Public Law 107-16)*,
15 relating to excess contributions under Section 4979, shall not
16 apply.

17 *SEC. 30. Section 23705 of the Revenue and Taxation Code is*
18 *amended to read:*

19 23705. (a) (1) An organization described in Section 23701i
20 (voluntary employee's beneficiary associations) or 23701q
21 (qualified group legal service plans) which is part of a plan of an
22 employer shall not be exempt from tax under Section 23701,
23 unless that plan meets the requirements of Section 505(b) of the
24 Internal Revenue Code, *as amended by Title VI of the Economic*
25 *Growth and Tax Relief Reconciliation Act of 2001 (Public Law*
26 *107-16)*.

27 (2) Paragraph (1) shall not apply to any organization described
28 in Section 505(a)(2) of the Internal Revenue Code.

29 (b) A copy of any notice filed with the Secretary of the
30 Treasury, pursuant to Section 505(c) of the Internal Revenue Code,
31 relating to application for tax-exempt status, shall be filed at the
32 same time and in the same manner with the Franchise Tax Board.

33 *SEC. 31. Section 23711 of the Revenue and Taxation Code is*
34 *amended to read:*

35 23711. Section 529 of the Internal Revenue Code, *as amended*
36 *by Section 402 of the Economic Growth and Tax Relief*
37 *Reconciliation Act of 2001 (Public Law 107-16)* relating to
38 qualified state tuition programs, shall apply, except as otherwise
39 provided.

(a) Section 529(a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under Part 10 (commencing with Section 17001) and this part” in lieu of the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “section 511.”

(b) A copy of the report required to be filed with the Secretary of the Treasury under Section 529(d) of the Internal Revenue Code shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

SEC. 32. Section 23712 of the Revenue and Taxation Code is amended to read:

23712. Section 530 of the Internal Revenue Code, as amended by Section 401 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) relating to education individual retirement accounts, shall apply, except as otherwise provided.

(a) Section 530(a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under Part 10 (commencing with Section 17001) and this part” in lieu of the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “section 511.”

(b) *For taxable years beginning before January 1, 2002*, Section 530(b)(1) of the Internal Revenue Code, relating to the definition of education individual retirement account, is modified to additionally require that upon the date that the designated beneficiary becomes 30 years of age, any balance to the credit of the beneficiary shall be distributed within 30 days after the date the beneficiary becomes 30 years of age to that beneficiary.

(c) Section 530(d) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under Part 10 (commencing with Section 17001) in the manner as provided in Section 72(b) of the Internal Revenue Code, as modified by Part 10” in lieu of the phrase “in the manner as provided in Section 72(b)” in Section 530(d)(1) of the Internal Revenue Code.

(2) (A) A taxpayer that has elected to waive the application of Section 530(d)(2) of the Internal Revenue Code for federal *income tax* purposes shall be treated as having waived the application of that paragraph for state purposes, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5 or paragraph (3) of subdivision (e) of Section 23051.5, and the federal election shall be binding for purposes of Part 10 (commencing with Section 17001) and this part.

(B) If a taxpayer fails to make an election under Section 530(d)(2)(C) of the Internal Revenue Code for federal *income tax* purposes to waive the application of Section 530(d)(2) of the Internal Revenue Code, an election under Section 530(d)(2)(C) of the Internal Revenue Code shall not be allowed for state purposes, Section 530(d)(2)(A) and (B) of the Internal Revenue Code shall apply for state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.

(3) (A) By substituting the phrase “tax imposed by Part 10 (commencing with Section 17001)” in lieu of the phrase “tax imposed by this chapter” in Section 530(d)(4)(A) of the Internal Revenue Code.

(B) By substituting the phrase “increased by 2½ percent” in lieu of the phrase “increased by 10 percent” in Section 530(d)(4)(A) of the Internal Revenue Code.

(C) By substituting the phrase “shall be included in the contributor’s gross income under Part 10 (commencing with Section 17001) or this part” in lieu of the phrase “shall be included in gross income” in Section 530(d)(4)(C) of the Internal Revenue Code.

(d) For purposes of Part 10 (commencing with Section 17001) and this part, in the case of a custodial account treated as a trust by reason of Section 530(g) of the Internal Revenue Code, the custodian of that account shall be treated as the trustee thereof.

(e) A copy of the report, which is required to be filed with the Secretary of the Treasury under Section 530(h) of the Internal Revenue Code, shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

SEC. 33. Section 23800.5 of the Revenue and Taxation Code is amended to read:

23800.5. (a) Section 1361(b)(2)(A) of the Internal Revenue Code, relating to ineligible corporation defined, shall not apply and in lieu thereof, for purposes of Section 1361(b)(1) of the Internal Revenue Code, Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part, “ineligible corporation” shall include a savings and loan association, bank, or financial corporation which uses the reserve method of accounting for bad debts described in Section 24348.

(b) Section 1361(b)(3) of the Internal Revenue Code, relating to treatment of certain wholly owned subsidiaries, is modified as follows:

(1) For purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part:

(A) Section 1361(b)(3)(A)(i) of the Internal Revenue Code shall apply, except as provided in subparagraph (B).

(B) There is hereby imposed a tax annually in an amount equal to the applicable amount specified in paragraph (1) of subdivision (d) of Section 23153 on a qualified Subchapter S subsidiary that is incorporated under the laws of this state, qualified to transact intrastate business in this state pursuant to Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code, or doing business in this state.

(C) Every qualified Subchapter S subsidiary described in subparagraph (B) shall be subject to the tax imposed under subparagraph (B) from the earlier of the date of incorporation, qualification, or commencement of business in this state, until the effective date of dissolution or withdrawal as provided in Section 23331, or, if later, the date the corporation ceases to do business in this state.

(2) For purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part:

(A) Section 1361(b)(3)(A)(ii) of the Internal Revenue Code shall not apply and, in lieu thereof, subparagraph (B) shall apply and all references to Section 1361(b)(3)(A)(ii) of the Internal Revenue Code shall be treated as a reference to subparagraph (B).

(B) All activities, assets, liabilities, including liability for the tax imposed under this subdivision, and items of income, deduction, and credit of a qualified Subchapter S subsidiary shall be treated as activities (including activities for purposes of Section

1 23101), assets, liabilities, and those items, as the case may be, of
2 the “S corporation.”

3 (3) Section 1361(b)(3)(B) of the Internal Revenue Code is
4 modified to include the following requirements in addition to the
5 requirements contained therein:

6 (A) The “S corporation” has in effect a valid election to treat
7 the corporation as a qualified Subchapter S subsidiary for federal
8 *income tax* purposes.

9 (B) An election made by the “S corporation” under Section
10 1361(b)(3)(B)(ii) of the Internal Revenue Code to treat the
11 corporation as a qualified Subchapter S subsidiary for federal
12 *income tax* purposes shall be treated for purposes of this part as an
13 election made by the “S corporation” under this subdivision and
14 a separate election ~~under paragraph (3) of subdivision (e) of~~
15 ~~Section 23051.5~~ shall not be allowed.

16 (C) No election under this subdivision shall be allowed unless
17 the “S corporation” has made the election under Section
18 1361(b)(3)(B)(ii) of the Internal Revenue Code to treat the
19 corporation as a qualified Subchapter S subsidiary for federal
20 *income tax* purposes.

21 (c) Section 1361(c)(6) of the Internal Revenue Code, relating
22 to certain exempt organizations permitted as shareholders, is
23 modified by substituting a reference to Section 17631 or Section
24 23701d in lieu of the reference to Section 501(c)(3) of the Internal
25 Revenue Code and by substituting a reference to Section 17631 or
26 Section 23701 in lieu of the reference to Section 501(a) of the
27 Internal Revenue Code.

28 (d) Section 1361(e)(1)(B)(ii) of the Internal Revenue Code,
29 relating to certain trusts not eligible, is modified by substituting
30 “under Part 10 (commencing with Section 17001) or this part” in
31 lieu of “under this subtitle.”

32 (e) Section 1361(e)(3) of the Internal Revenue Code, relating
33 to election, is modified to include the following provisions:

34 (1) An election made by the trustee under Section 1361(e) of
35 the Internal Revenue Code to be an electing small business trust for
36 federal *income tax* purposes shall be treated for purposes of this
37 part as an election made by the trustee under this subdivision and
38 a separate election ~~under paragraph (3) of subdivision (e) of~~
39 ~~Section 23051.5~~ shall not be allowed. Any election made shall
40 apply to the taxable year of the trust for which made and to all

1 subsequent taxable years of the trust, unless revoked with the
2 consent of the Franchise Tax Board.

3 (2) No election under this subdivision shall be allowed unless
4 the trustee has made the election under Section 1361(e) of the
5 Internal Revenue Code to be an electing small business trust for
6 federal *income tax* purposes.

7 *SEC. 34. Section 23801 of the Revenue and Taxation Code is*
8 *amended to read:*

9 23801. (a) ~~(1) A—Except as other wise provided, a~~
10 ~~corporation may not elect to be treated as an “S corporation”~~
11 ~~unless it~~ that has in effect for federal *income tax* purposes a valid
12 election under Section 1362(a) of the Internal Revenue Code ~~for~~
13 ~~the same year shall be an “S” corporation for purposes of Part 10~~
14 ~~(commencing with Section 17001), Part 10.2 (commencing with~~
15 ~~Section 18401), and this part.~~

16 ~~(2) For taxable years beginning in 1987, the following shall~~
17 ~~apply:~~

18 ~~(A) A corporation that has in effect a valid federal election for~~
19 ~~the taxable year beginning in 1987, shall be deemed to have elected~~
20 ~~to be treated as an “S corporation” for purposes of this part, unless~~
21 ~~that corporation elects on its return to continue to be treated as a~~
22 ~~“C corporation” for purposes of this part.~~

23 ~~(B) A corporation to which subparagraph (A) applies, but is not~~
24 ~~required to file a return under this part, may elect to be treated as~~
25 ~~a “C corporation” for purposes of this part in the form and in the~~
26 ~~manner as the Franchise Tax Board may prescribe.~~

27 ~~(C) A corporation that is deemed to have elected to be treated~~
28 ~~as an “S corporation” under subparagraph (A) shall, for purposes~~
29 ~~of applying the provisions of Section 1374 of the Internal Revenue~~
30 ~~Code, relating to tax imposed on certain built-in gains, and Section~~
31 ~~1375 of the Internal Revenue Code, relating to tax imposed on~~
32 ~~passive investment income, be deemed to have made the election~~
33 ~~to be treated as an “S corporation” on the same date as the date of~~
34 ~~its federal election under Section 1362(a) of the Internal Revenue~~
35 ~~Code.~~

36 ~~(3) For taxable years beginning in 1988 or 1989, the following~~
37 ~~shall apply:~~

38 ~~(A) A corporation that had in effect a valid federal election for~~
39 ~~the preceding year, but was a “C corporation” for purposes of this~~
40 ~~part for that preceding year, may elect to be treated as an “S~~

1 corporation” for purposes of this part by making an election in
2 accordance with the provisions of Section 1362 of the Internal
3 Revenue Code in the form and in the manner as the Franchise Tax
4 Board may prescribe.

5 (B) A corporation that did not have in effect a valid federal
6 election for the preceding year and that makes a federal election
7 for the taxable year under Section 1362(a) of the Internal Revenue
8 Code shall be deemed to have made an election to be treated as an
9 “S corporation” for purposes of this part on the same date as the
10 date of its federal election, unless that corporation elects on its
11 return to continue to be treated as a “C corporation” for purposes
12 of this part.

13 (C) A corporation to which subparagraph (B) applies, but is not
14 required to file a return under this part, may elect to be treated as
15 a “C corporation” for purposes of this part in a form and manner
16 as the Franchise Tax Board may prescribe.

17 (D) A corporation that elects to be treated as an “S
18 corporation” under subparagraph (A) for a taxable year beginning
19 in 1988 shall, for purposes of applying the provisions of Section
20 1374 of the Internal Revenue Code, relating to tax imposed on
21 certain built-in gains, and Section 1375 of the Internal Revenue
22 Code, relating to tax imposed on passive investment income, be
23 deemed to have made the election to be treated as an “S
24 corporation” on the same date as the date of its federal election
25 under Section 1362(a) of the Internal Revenue Code.

26 (4) For taxable years beginning on or after January 1, 1990, the
27 following shall apply:

28 (A) An election under Section 1362(a) of the Internal Revenue
29 Code, that is first effective for a taxable year beginning on or after
30 January 1, 1990, shall be an election to which subdivision (e) of
31 Section 23051.5 applies and shall be deemed to have been made
32 for purposes of this part on the same date as the date of the federal
33 election, unless the corporation files a California election under
34 clause (ii) to be treated as a “C corporation” for purposes of this
35 part.

36 (i) The federal “S” election shall be reported for purposes of
37 this part in the form and manner as prescribed by the Franchise Tax
38 Board no later than the last date allowed for filing the federal
39 election under Section 1362(a) of the Internal Revenue Code for
40 that taxable year.

1 (ii) ~~The California election to be a “C corporation” may only~~
2 ~~be made by a corporation incorporated in California or qualified~~
3 ~~to do business in California and shall be made in the form and~~
4 ~~manner prescribed by the Franchise Tax Board no later than the last~~
5 ~~date allowed for filing the federal “S” election under Section~~
6 ~~1362(a) of the Internal Revenue Code for that taxable year.~~

7 (B) ~~A corporation that has in effect a valid election under~~
8 ~~Section 1362(a) of the Internal Revenue Code, but is a “C~~
9 ~~corporation” for purposes of this part, may elect to be treated as~~
10 ~~an “S corporation” by making an election in the form and manner~~
11 ~~as prescribed by the Franchise Tax Board at the time required for~~
12 ~~making an “S” election under Section 1362(a) of the Internal~~
13 ~~Revenue Code for that taxable year, unless prohibited from doing~~
14 ~~so by Section 1362(g) of the Internal Revenue Code, relating to~~
15 ~~election after termination.~~

16 (C) ~~In the event a corporation which has in effect a valid~~
17 ~~election under Section 1362(a) of the Internal Revenue Code and~~
18 ~~is not doing business in California becomes subject to this part by~~
19 ~~qualifying to do business in California, the corporation is deemed~~
20 ~~to have made an election to be treated as an “S corporation” for~~
21 ~~the taxable year during which the corporation qualifies to do~~
22 ~~business in California, unless the corporation files a California~~
23 ~~election in accordance with clause (ii) to be treated as a “C~~
24 ~~corporation” for that taxable year.~~

25 (i) ~~The federal “S” election shall be reported for purposes of~~
26 ~~this part within two and one-half months after qualifying to do~~
27 ~~business in California in the form and manner as prescribed by the~~
28 ~~Franchise Tax Board.~~

29 (ii) ~~The California election to be a “C corporation” shall be~~
30 ~~made in the form and manner as prescribed by the Franchise Tax~~
31 ~~Board no later than the following:~~

32 (I) ~~For a taxable year beginning in 1990, two and one-half~~
33 ~~months after qualifying to do business in California.~~

34 (H) ~~For a taxable year beginning on or after January 1, 1991,~~
35 ~~the last date allowed for filing a federal “S” election under Section~~
36 ~~1362(a) of the Internal Revenue Code for that taxable year.~~

37 (D) (i) ~~—~~

38 (b) ~~A corporation that is not qualified to do business in~~
39 ~~California, but is treated as an “S corporation” for federal income~~
40 ~~tax purposes, shall be treated as an “S corporation” for purposes~~

1 of Part 10 (commencing with Section 17001), Part 10.2
2 (commencing with Section 18401, and this part, and its
3 shareholders shall be ~~treated as shareholders of an “S~~
4 ~~corporation.”~~

5 (ii) ~~If a corporation described in clause (i) elected to be treated~~
6 ~~as a “C corporation” under this section prior to its amendment by~~
7 ~~the act adding this paragraph during the 1989–90 Regular Session,~~
8 ~~that election shall be revoked for taxable years beginning on or~~
9 ~~after January 1, 1990. The corporation shall be treated as an “S~~
10 ~~corporation” for purposes of this part, and its shareholders shall~~
11 ~~be treated as shareholders of an “S corporation.”~~

12 (E) ~~For purposes of this section, “qualified to do business in~~
13 ~~California” or “qualifying to do business in California” means~~
14 ~~incorporating or obtaining a certificate of qualification pursuant to~~
15 ~~the Corporations Code.~~

16 (F) ~~For purposes of this section:~~

17 (i) ~~A timely election to be treated as a “C corporation” shall be~~
18 ~~treated as a revocation and Section 1362(g) of the Internal~~
19 ~~Revenue Code, relating to election after termination, shall apply.~~

20 (ii) ~~An untimely election to be treated as a “C corporation”~~
21 ~~shall be null and void and shall not be applied to either the current~~
22 ~~or any subsequent taxable year.~~

23 (5) ~~For taxable years beginning on or after January 1, 1997, the~~
24 ~~provisions of paragraph (4) shall apply, subject to the following~~
25 ~~modifications:~~

26 (A) ~~A corporation corporation” without regard to whether the~~
27 ~~corporation is qualified to do business or is incorporated in this~~
28 ~~state.~~

29 (c) ~~Notwithstanding subdivision (a), a corporation that elects~~
30 ~~“S corporation” status under Section 1362 of the Internal Revenue~~
31 ~~Code for federal income tax purposes but which is not qualified to~~
32 ~~be an “S corporation” under subdivision (a) of Section 23800.5,~~
33 ~~shall not be an “S corporation” for purposes of Part 10~~
34 ~~(commencing with Section 17001), Part 10.2 (commencing with~~
35 ~~Section 18401, and this part.~~

36 (B) (i) ~~A corporation that becomes an “S corporation” for a~~
37 ~~taxable year beginning before January 1, 1997, under the~~
38 ~~provisions of Section 1305 of the Small Business Job Protection~~
39 ~~Act of 1996 (P.L. 104-188) for federal purposes, shall become an~~
40 ~~“S corporation” for purposes of Part 10 (commencing with~~

1 Section 17001) and this part, for its first taxable year beginning on
2 or after January 1, 1997, unless a timely election to continue as a
3 “C corporation” is made.

4 (ii) For purposes of clause (i), an election shall be considered
5 timely if made no later than the earlier of the date that is 180 days
6 after the date of enactment of the act adding this paragraph or the
7 due date, without regard to extensions, of the return for its first
8 taxable year beginning on or after January 1, 1997.

9 (C) (i) A corporation that makes a valid federal election to be
10 an “S corporation” during the period in 1997 before the date of
11 enactment of the act adding this paragraph and which would not
12 qualify to be an “S corporation” under this part on the date of the
13 federal election shall become an “S corporation” for purposes of
14 Part 10 (commencing with Section 17001) and this part, for its first
15 taxable year beginning on or after January 1, 1997, unless a timely
16 election to continue as a “C corporation” is made.

17 (ii) For purposes of clause (i), an election shall be considered
18 timely if made no later than the earlier of the date that is 180 days
19 after the date of enactment of the act adding this paragraph or the
20 due date, without regard to extensions, of the return for its first
21 taxable year beginning on or after January 1, 1997.

22 (b) If a corporation subject to tax under this part elects to be
23 treated as an “S corporation” and has one or more shareholders
24 who are nonresidents of this state or is a trust with a nonresident
25 fiduciary, each of the following shall be required:

26 (1) Each nonresident shareholder or fiduciary shall file with the
27 return a statement of consent by that shareholder or fiduciary to be
28 subject to the jurisdiction of the State of California to tax the
29 shareholder’s pro rata share of the income attributable to
30 California sources.

31 (2) An “S corporation” shall include in its return for each
32 taxable year a list of shareholders in the form and in the manner
33 prescribed by the Franchise Tax Board.

34 (3) Failure to meet the requirements of this subdivision shall be
35 grounds for retroactive revocation by the Franchise Tax Board of
36 the election pursuant to this chapter.

37 (e)–

38 (d) Except as provided in subdivision (d) (e), a corporation that
39 makes a valid election to be treated as *is* an “S corporation” for

purposes of this part shall not be included in a combined report pursuant to Chapter 17 (commencing with Section 25101).

~~(d)~~

(e) (1) In cases where the Franchise Tax Board determines that the reported income or loss of a group of commonly owned or controlled corporations (within the meaning of Section 25105), which includes one or more corporations ~~electing to be treated as~~ an “S corporation” under Chapter 4.5 (commencing with Section 23800), does not clearly reflect income (or loss) of a member of that group or represents an evasion of tax by one or more members of that group, and the Franchise Tax Board determines that the comparable uncontrolled price method prescribed by regulations pursuant to Section 482 of the Internal Revenue Code cannot practically be applied, the Franchise Tax Board may, in lieu of other methods prescribed by regulations pursuant to Section 482 of the Internal Revenue Code, apply methods of unitary combination, pursuant to Article 1 (commencing with Section 25101) of Chapter 17, to properly reflect the income or loss of the members of the group.

(2) The application of the provisions of this subdivision shall not affect the ~~election treatment~~ of any corporation ~~to be treated as~~ an “S corporation.”

~~(e)~~

(f) The tax for a “C corporation” for a short year shall be determined in accordance with Chapter 13 (commencing with Section 24631), in lieu of Section 1362(e)(5) of the Internal Revenue Code.

~~(f)~~

(g) (1) A termination of a federal election pursuant to Section 1362(d) of the Internal Revenue Code, that is not an inadvertent termination pursuant to Section 1362(f) of the Internal Revenue Code, shall simultaneously terminate the “S corporation” election for purposes of Part 10 (commencing with Section 17001), *Part 10.2 (commencing with Section 18401)*, and this part.

(2) A federal termination by revocation shall be effective for purposes of this part and shall be reported to the Franchise Tax Board in the form and manner prescribed by the Franchise Tax Board no later than the last date allowed for filing federal termination for that year under Section 1362(d) of the Internal Revenue Code.

~~(3) A corporation which is qualified to do business in California and has in effect a valid “S” election under Section 1362(a) of the Internal Revenue Code, may revoke its “S” election for purposes of this part without revoking its federal election. The revocation for purposes of this part shall be made by providing a written notification to the Franchise Tax Board in the form and manner prescribed by the Franchise Tax Board which includes the California corporation number and meets the requirements of Section 1362(d)(1) of the Internal Revenue Code.~~

~~(g) For taxable years beginning on or after January 1, 1990, if a corporation, which has in effect a valid “S” election under Section 1362(a) of the Internal Revenue Code, fails to make a “C corporation” election under clause (ii) of subparagraphs (A) and (C) of paragraph (4) of subdivision (a) or to terminate by revocation under paragraph (3) of subdivision (f), the corporation shall be treated as an “S corporation” pursuant to subparagraph (A) of paragraph (4) of subdivision (a).~~

~~(h) For taxable years beginning on or after January 1, 1997, for purposes of subparagraph (F) of paragraph (4) of subdivision (a) of this section and Section 1362(g) of the Internal Revenue Code, relating to election after termination, any termination under Section 1362(d) of the Internal Revenue Code or election to be treated as a “C corporation” under subparagraph (A) or (C) of paragraph (4) of subdivision (a), or to terminate by revocation under paragraph (3) of subdivision (f) in a taxable year beginning before January 1, 1997, shall not be taken into account.~~

~~(i) (1) The provisions of Section 1362(b)(5) of the Internal Revenue Code, relating to authority to treat late elections, etc., as timely, shall apply only for taxable years beginning on or after January 1, 1997, with respect to elections under Section 1362(a) of the Internal Revenue Code for taxable years beginning on or after January 1, 1997.~~

~~(2) Notwithstanding the provisions of paragraph (1), if for any taxable year beginning on or after January 1, 1987, a corporation fails to qualify as an “S corporation” for federal income tax purposes solely because the federal Form 2553 (Election by a Small Business Corporation) was not filed timely, the corporation shall be treated for purposes of this part as an “S corporation” for the taxable year the “S corporation” election should have been~~

made, and for each subsequent year until terminated, if both of the following conditions are met:

(A) The corporation and all of its shareholders reported their income for California tax purposes on original returns consistent with “S corporation” status for the year the “S corporation” election should have been made, and for each subsequent taxable year (if any) until terminated.

(B) The corporation and its shareholders have filed with the Internal Revenue Service a federal Form 2553 requesting automatic relief with respect to the late “S corporation” election, in full compliance with the federal Revenue Procedure 1997-48, I.R.B. 1997-43, and have received notification of the acceptance of the untimely filed “S corporation” election from the Internal Revenue Service. A copy of the notification shall be provided to the Franchise Tax Board upon request.

(j) The provisions of Section 1362(f) of the Internal Revenue Code, relating to inadvertent invalid elections or terminations, shall apply only for taxable years beginning on or after January 1, 1997, with respect to elections under Section 1362(a) of the Internal Revenue Code for taxable years beginning on or after January 1, 1997.

SEC. 35. Section 23802 of the Revenue and Taxation Code is amended to read:

23802. (a) Section 1363(a) of the Internal Revenue Code, relating to the taxability of an “S corporation,” shall not be applicable.

(b) Corporations qualifying under this chapter shall continue to be subject to the taxes imposed under Chapter 2 (commencing with Section 23101) and Chapter 3 (commencing with Section 23501), except as follows:

(1) The tax imposed under Section 23151 or 23501 shall be imposed at a rate of 1½ percent rather than the rate specified in those sections.

(2) In the case of an “S corporation” which is also a financial corporation, the rate of tax specified in paragraph (1) shall be increased by the excess of the rate imposed under Section 23183 over the rate imposed under Section 23151.

(c) An “S corporation” shall be subject to the minimum franchise tax imposed under Section 23153.

(d) (1) For purposes of subdivision (b), an “S corporation” shall be allowed a deduction under Section 24416 or 24416.1 (relating to net operating loss deductions), but only with respect to losses incurred during periods in which the corporation ~~had in effect a valid election to be treated as~~ is an “S corporation” for purposes of this part.

(2) Section 1371(b) of the Internal Revenue Code, relating to denial of carryovers between “C years” and “S years,” shall apply for purposes of the tax imposed under subdivision (b), except as provided in paragraph (1).

(3) The provisions of this subdivision shall not affect the amount of any item of income or loss computed in accordance with the provisions of Section 1366 of the Internal Revenue Code, relating to passthrough items to shareholders.

(4) For purposes of subdivision (b) of Section 17276, relating to limitations on loss carryovers, losses passed through to shareholders of an “S corporation,” to the extent otherwise allowable without application of that subdivision, shall be fully included in the net operating loss of that shareholder and then that subdivision shall be applied to the entire net operating loss.

(e) For purposes of computing the taxes specified in subdivision (b), an “S corporation” shall be allowed a deduction from income for built-in gains and passive investment income for which a tax has been imposed under this part in accordance with the provisions of Section 1374 of the Internal Revenue Code, relating to tax imposed on certain built-in gains, or Section 1375 of the Internal Revenue Code, relating to tax imposed on passive investment income.

(f) For purposes of computing taxes imposed under this part, as provided in subdivision (b):

(1) An “S corporation” shall compute its deductions for amortization and depreciation in accordance with the provisions of Part 10 (commencing with Section 17001) of Division 2.

(2) The provisions of Section 465 of the Internal Revenue Code, relating to limitation of deductions to the amount at risk, shall be applied in the same manner as in the case of an individual.

(3) (A) The provisions of Section 469 of the Internal Revenue Code, relating to limitations on passive activity losses and credits, shall be applied in the same manner as in the case of an individual.

For purposes of the tax imposed under Section 23151 or 23501, as

modified by this section, material participation shall be determined in accordance with Section 469(h) of the Internal Revenue Code, relating to certain closely held “C corporations” and personal service corporations.

(B) For purposes of this paragraph, the “adjusted gross income” of the “S corporation” shall be equal to its “net income,” as determined under Section 24341 with the modifications required by this subdivision, except that no deduction shall be allowed for contributions allowed by Section 24357.

(4) The exclusion provided under Section 18152.5 shall not be allowed to an “S corporation.”

(g) The provisions of Section 1363(d) of the Internal Revenue Code, relating to recapture of LIFO benefits, shall be modified for purposes of this part to refer to Section 19101 in lieu of Section 6601 of the Internal Revenue Code.

SEC. 36. Section 23806 of the Revenue and Taxation Code is amended to read:

23806. (a) Section 1371(a) of the Internal Revenue Code, relating to application of Subchapter C rules, is modified to provide that, ~~notwithstanding subdivisions (a) and (c) of Sections 17024.5 and 23051.5,~~ any election by an “S corporation” or its shareholders under Section 338 of the Internal Revenue Code, relating to certain stock purchases treated as asset acquisitions, for federal *income tax* purposes shall be treated as an election for purposes of *Part 10 (commencing with Section 17001, Part 10.2 (commencing with Section 18401), and this part and a separate election for state purposes under paragraph (3) of subdivision (c) of Section 17024.5 or 23051.5* shall not be allowed.

(b) No election under Section 338 of the Internal Revenue Code, relating to certain stock purchases treated as asset acquisitions, shall be allowed for state purposes unless the “S corporation” or its shareholders made a valid election for federal *income tax* purposes under Section 338 of the Internal Revenue Code.

(c) Section 1371 (d) of the Internal Revenue Code shall not apply.

~~(d) (1) Subdivisions (a) and (b) shall apply to any transaction occurring on or after January 1, 1998, in a taxable year beginning on or after January 1, 1997.~~

~~(2) Subdivision (c) shall apply to taxable years beginning on or after January 1, 1997.~~

SEC. 37. Section 23811 of the Revenue and Taxation Code is amended to read:

23811. Except as otherwise provided in this section, there is hereby imposed a tax on passive investment income attributable to California sources, determined in accordance with the provisions of Section 1375 of the Internal Revenue Code, relating to tax imposed on passive investment income, as modified by this section.

(a) The tax imposed under this section shall not be imposed on an “S corporation” that has no excess net passive income for federal *income tax* purposes determined in accordance with Section 1375 of the Internal Revenue Code.

(b) (1) The rate of tax shall be equal to the rate of tax imposed under Section 23151 in lieu of Section 11(b) of the Internal Revenue Code.

(2) In the case of an “S corporation” which is also a financial corporation, the rate of tax specified in paragraph (1) shall be increased by the excess of the rate imposed under Section 23183 over the rate imposed under Section 23151.

(c) The provisions of Section 1375(c)(1) of the Internal Revenue Code, relating to credits, shall be modified to provide that the tax imposed under subdivision (a) shall not be reduced by any credits allowed under this part.

(d) The term “subchapter C earnings and profits” as used in Sections 1362(d)(3) and 1375 of the Internal Revenue Code shall mean the subchapter C earnings and profits of the corporation attributable to California sources determined under this part, modified as provided in subdivision (e).

(e) (1) In the case of a corporation which ~~elects to be treated as is~~ an “S corporation” for purposes of this part for its ~~first taxable year beginning in 1987, or for its~~ first taxable year for which it has in effect a valid federal S election, there shall be allowed as a deduction in determining that corporation’s subchapter C earnings and profits at the close of any taxable year the amount of any consent dividend (as provided in paragraph (2)) paid after the close of that taxable year.

(2) In the event there is a determination that a corporation described in paragraph (1) has subchapter C earnings and profits

1 at the close of any taxable year, that corporation shall be entitled
2 to distribute a consent dividend to its shareholders. The amount of
3 the consent dividend shall not exceed the difference between the
4 corporation's subchapter C earnings and profits determined under
5 subdivision (d) at the close of the taxable year with respect to
6 which the determination is made and the corporation's subchapter
7 C earnings and profits for federal income tax purposes at the same
8 date. A consent dividend must be paid within 90 days of the date
9 of the determination that the corporation has subchapter C
10 earnings and profits. For this purpose, the date of a determination
11 means the effective date of a closing agreement pursuant to Section
12 19441, the date an assessment of tax imposed by this section
13 becomes final, or the date of execution by the corporation of an
14 agreement with the Franchise Tax Board relating to liability for the
15 tax imposed by this section. For purposes of Part 10 (*commencing*
16 *with Section 17001*), Part 10.2 (*commencing with Section 18401*),
17 and this part, a corporation must make the election provided in
18 Section 1368(e)(3) of the Internal Revenue Code for *federal*
19 *income tax purposes* any consent dividend.

20 (3) If a corporation distributes a consent dividend, it shall claim
21 the deduction provided in paragraph (1) by filing a claim therefor
22 with the Franchise Tax Board within 120 days of the date of the
23 determination specified in paragraph (2).

24 (4) The collection of tax imposed by this section from a
25 corporation described in paragraph (2) shall be stayed for 120 days
26 after the date of the determination specified in paragraph (2). If a
27 claim is filed pursuant to paragraph (3), collection of that tax shall
28 be further stayed until the date the claim is acted upon by the
29 Franchise Tax Board.

30 (5) If a claim is filed pursuant to paragraph (3), the running of
31 the statute of limitations on the making of assessments and actions
32 for collection of the tax imposed by this section shall be suspended
33 for a period of two years after the date of the determination
34 specified in paragraph (2).

35 *SEC. 38. Section 24307 of the Revenue and Taxation Code is*
36 *amended to read:*

37 24307. (a) Section 108 of the Internal Revenue Code,
38 relating to income from discharge of indebtedness, shall apply,
39 except as otherwise provided.

(b) Section 108(b)(2)(B) of the Internal Revenue Code, relating to general business credit, is modified by substituting “this part” in lieu of “Section 38 (relating to general business credit).”

(c) Section 108(b)(2)(G) of the Internal Revenue Code, relating to foreign tax credit carryovers, shall not apply.

(d) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting “11.1 cents” in lieu of “33 1/3 cents” in each place in which it appears. In the case where more than one credit is allowable under this part, the credits shall be reduced on a pro rata basis.

(e) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting “\$9” in lieu of “\$3.”

(f) (1) The amendments to Section 108 of the Internal Revenue Code made by Section 13150 of the Revenue Reconciliation Act of 1993 (~~P.L.~~ *Public Law* 103-66), relating to exclusion from gross income for income from discharge of qualified real property business indebtedness, shall apply to discharges occurring on or after January 1, 1996, in taxable years beginning on or after January 1, 1996.

(2) If a taxpayer makes an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, a separate election shall not be allowed ~~under paragraph (3) of subdivision (c) of Section 23051.5 and the~~ federal election shall be binding for purposes of this part.

(3) If a taxpayer has not made an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, then the taxpayer shall not be allowed to make that election for purposes of this part.

(g) The amendments to Section 108 of the Internal Revenue Code made by Section 13226 of the Revenue Reconciliation Act of 1993 (~~P.L.~~ *Public Law* 103-66), relating to modifications of discharge of indebtedness provisions, shall apply to discharges occurring on or after January 1, 1996, in taxable years beginning on or after January 1, 1996.

SEC. 39. Section 24347.6 is added to the Revenue and Taxation Code, to read:

24347.6. *Notwithstanding subdivision (e) of Section 17024.5, a taxpayer may make a separate state election under Section 165(i)(1) of the Internal Revenue Code to take a loss attributable to a disaster into account in the taxable year immediately preceding the taxable year in which the disaster occurred.*

SEC. 40. *Section 24349 of the Revenue and Taxation Code is amended to read:*

24349. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear, and tear (including a reasonable allowance for obsolescence)—

(1) Of property used in the trade or business; or

(2) Of property held for the production of income.

(b) Except as otherwise provided in subdivision (c), for taxable years ending after December 31, 1958, the term “reasonable allowance” as used in subdivision (a) shall include, but shall not be limited to, an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the following methods:

(1) The straight-line method.

(2) The declining balance method, using a rate not exceeding twice the rate that would have been used had the annual allowance been computed under the method described in paragraph (1).

(3) The sum of the years-digits method.

(4) Any other consistent method productive of an annual allowance that, when added to all allowances for the period commencing with the taxpayer’s use of the property and including the taxable year, does not, during the first two-thirds of the useful life of the property, exceed the total of those allowances that would have been used had those allowances been computed under the method described in paragraph (2).

Nothing in this subdivision shall be construed to limit or reduce an allowance otherwise allowable under subdivision (a).

(c) Any grapevine replaced in a vineyard in California in a taxable year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, and any grapevine replaced in a vineyard in California in a taxable year beginning on or after January 1, 1997, as a direct result of Pierce’s Disease in that vineyard, shall have a useful life of five years, except that it shall have a class life of 10 years for purposes of depreciation under Section 168(g)(2) of the Internal Revenue

1 Code where the taxpayer has made an election under Section
2 263A(d)(3) of the Internal Revenue Code not to capitalize costs of
3 the infested vineyard. Every taxpayer claiming a deduction under
4 this section with respect to a grapevine as described in this
5 subdivision shall obtain a written certification from an
6 independent state-certified integrated pest management adviser, or
7 a state agricultural commissioner or adviser, that specifies that the
8 replanting was necessary to restore a vineyard infested with
9 phylloxera or Pierce's Disease. The taxpayer shall retain the
10 certification for future audit purposes.

11 (d) For purposes of this part, the deduction for property leased
12 to governments and other tax-exempt entities, as defined in
13 Section 168(h) of the Internal Revenue Code, shall be limited to
14 the amount determined under Section 168(g) of the Internal
15 Revenue Code, relating to alternative depreciation system for
16 certain property.

17 (e) (1) In the case of any building erected or improvements
18 made on leased property, if the building or improvement is
19 property to which this section applies, the depreciation deduction
20 shall be determined under the provisions of this section.

21 (2) An improvement shall be treated for purposes of
22 determining gain or loss under this part as disposed of by the lessor
23 when so disposed of or abandoned if both of the following occur:

24 (A) The improvement is made by the lessor of leased property
25 for the lessee of that property.

26 (B) The improvement is irrevocably disposed of or abandoned
27 by the lessor at the termination of the lease by the lessee.

28 This subdivision shall not apply to any property to which
29 Section 168 of the Internal Revenue Code does not apply for
30 federal *income tax* purposes by reason of Section 168(f) of the
31 Internal Revenue Code. Any election made under Section
32 168(f)(1) of the Internal Revenue Code for federal *income tax*
33 purposes with respect to that property shall be treated as a binding
34 election for state purposes under this subdivision with respect to
35 that same property and no separate election ~~under subdivision (e)~~
36 ~~of Section 23051.5~~ with respect to that property shall be allowed.

37 (3) (A) In determining a lease term, both of the following shall
38 apply:

39 (i) There shall be taken into account options to renew.

(ii) Two or more successive leases which are part of the same transaction (or a series of related transactions) with respect to the same or substantially similar property shall be treated as one lease.

(B) For purposes of clause (i) of subparagraph (A), in the case of nonresidential real property or residential rental property, there shall not be taken into account any option to renew at fair market value determined at the time of renewal.

(f) (1) Section 167(g) of the Internal Revenue Code, relating to depreciation under income forecast method, shall apply except as otherwise provided.

(2) Section 167(g)(2)(C) of the Internal Revenue Code is modified by substituting “Section 19521” in lieu of “Section 460(b)(7)” of the Internal Revenue Code.

(3) Section 167(g)(5)(D) of the Internal Revenue Code is modified by substituting “Part 10.2 (commencing with Section 18401) (other than Article 2 (commencing with Section 19021) and Sections 19142 to 19150, inclusive)” in lieu of “Subtitle F (other than Sections 6654 and 6655).”

SEC. 41. Section 24355.5 of the Revenue and Taxation Code is amended to read:

24355.5. (a) Section 197 of the Internal Revenue Code, relating to amortization of goodwill and certain other intangibles, shall apply, except as otherwise provided.

(b) (1) Section 13261(g) of the Revenue Reconciliation Act of 1993 (~~P.L.~~ (*Public Law* 103-66), relating to effective dates, shall apply, except as otherwise provided.

(2) (A) If a taxpayer has, at any time, made an election for federal *income tax* purposes under Section 13261(g)(2) of the Revenue Reconciliation Act of 1993 (~~P.L.~~ (*Public Law* 103-66), relating to election to have amendments apply to property acquired after July 25, 1991, or Section 13261(g)(3) of that act, relating to elective binding contract exception, a separate election for state purposes shall not be allowed ~~under paragraph (3) of subdivision (c) of Section 23051.5~~ and the federal election shall be binding for purposes of this part.

(B) If a taxpayer has not made an election for federal *income tax* purposes under Section 13261(g)(2) of the Revenue Reconciliation Act of 1993 (~~P.L.~~ (*Public Law* 103-66), relating to election to have amendments apply to property acquired after July 25, 1991, or Section 13261(g)(3) of that act, relating to elective

1 binding contract exception, with respect to property acquired
2 before August 11, 1993, then the taxpayer shall not be allowed to
3 make an election under Section 13261(g) of the Revenue
4 Reconciliation Act of 1993 ~~(P.L.~~ (*Public Law* 103-66), for
5 purposes of this part, with respect to that property.

6 (c) Notwithstanding any other provision of this section, each of
7 the following shall apply:

8 (1) No deduction shall be allowed under this section for any
9 taxable year beginning prior to January 1, 1994.

10 (2) No inference is intended with respect to the allowance or
11 denial of any deduction for amortization in any taxable year
12 beginning before January 1, 1994.

13 (3) In the case of an intangible that was acquired in an taxable
14 year beginning before January 1, 1994, the amount to be amortized
15 shall not exceed the adjusted basis of that intangible as of the first
16 day of the first taxable year beginning on or after January 1, 1994,
17 and that amount shall be amortized ratably over the period
18 beginning with the first month of the first taxable year beginning
19 on or after January 1, 1994, and ending 15 years after the month
20 in which the intangible was acquired.

21 *SEC. 42. Section 24369.4 of the Revenue and Taxation Code*
22 *is amended to read:*

23 24369.4. (a) Section 198 of the Internal Revenue Code,
24 relating to expensing of environmental remediation costs, shall
25 apply, except as otherwise provided.

26 (b) Section 198(b)(2) is modified to refer to Sections 24349 to
27 24355, inclusive, in lieu of Section 167 of the Internal Revenue
28 Code.

29 (c) Section 198(f) is modified to refer to Section 24442 in lieu
30 of Section 280B of the Internal Revenue Code.

31 (d) (1) If a taxpayer has, at any time, made an election for
32 federal *income tax* purposes under Section 198(a) of the Internal
33 Revenue Code to have Section 198 of the Internal Revenue Code
34 apply to a qualified environmental remediation expenditure,
35 Section 198 of the Internal Revenue Code shall apply to that
36 qualified environmental remediation expenditure for state
37 purposes, a separate election for state purposes shall not be
38 allowed ~~under paragraph (3) of subdivision (e) of Section 23051.5,~~
39 and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make an election for federal *income tax* purposes under Section 198(a) of the Internal Revenue Code to have Section 198 of the Internal Revenue Code apply to a qualified environmental remediation expenditure, an election under Section 198(a) of the Internal Revenue Code shall not be allowed for state purposes, Section 198 of the Internal Revenue Code shall not apply to that qualified environmental remediation expenditure for state purposes, and a separate election for state purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 23051.5.~~

(e) No inference as to the proper treatment for purposes of this part of qualified environmental remediation expenditures for periods before the enactment of this section shall be made.

SEC. 43. Section 24710 of the Revenue and Taxation Code is amended to read:

24710. (a) For each taxable year beginning on or after January 1, 1997, Section 475 of the Internal Revenue Code, relating to mark to market accounting method for securities dealers, shall apply, except as otherwise provided.

(b) Section 13233(c)(2)(C) of the Revenue Reconciliation Act of 1993 ~~(P.L. (Public Law 103-66)~~, relating to the effective date for changes in the mark to market accounting method for securities dealers, is modified to provide that the amount taken into account under Section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the five-taxable-year period beginning with the first taxable year beginning on or after January 1, 1997.

(c) (1) If a taxpayer has, at any time, made an election for federal *income tax* purposes under Section 475(e) of the Internal Revenue Code, relating to election of mark to market for dealers in commodities, to have Section 475 of the Internal Revenue Code apply, Section 475 of the Internal Revenue Code shall apply to that dealer in commodities for state purposes, a separate election for state purposes shall not be allowed ~~under paragraph (3) of subdivision (e) of Section 23051.5~~, and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal *income tax* purposes under Section 475(e) of the Internal Revenue Code, relating to election of mark to market for dealers in commodities, to have Section 475 of the Internal Revenue Code apply, an election under Section 475(e) of the

1 Internal Revenue Code shall not be allowed for state purposes,
2 Section 475 of the Internal Revenue Code shall not apply to that
3 dealer in commodities for state purposes, and a separate election
4 for state purposes shall not be allowed ~~under paragraph (3) of~~
5 ~~subdivision (e) of Section 23051.5.~~

6 (d) (1) If a taxpayer has, at any time, made an election for
7 federal *income tax* purposes under Section 475(f)(1) of the
8 Internal Revenue Code, relating to election of mark to market for
9 traders in securities, to have Section 475 of the Internal Revenue
10 Code apply to a trade or business, Section 475 of the Internal
11 Revenue Code shall apply to that trader in securities for state
12 purposes with respect to that trade or business, a separate election
13 for state purposes with respect to that trade or business shall not be
14 ~~allowed under paragraph (3) of subdivision (e) of Section 23051.5,~~
15 and the federal election shall be binding for purposes of this part.

16 (2) If a taxpayer fails to make, or has not previously made, an
17 election for federal *income tax* purposes under Section 475(f)(1)
18 of the Internal Revenue Code, relating to election of mark to
19 market for traders in securities, to have Section 475 of the Internal
20 Revenue Code apply to a trade or business, an election under
21 Section 475(f)(1) of the Internal Revenue Code shall not be
22 allowed for state purposes with respect to that trade or business,
23 Section 475 of the Internal Revenue Code shall not apply to that
24 trader in securities for state purposes with respect to that trade or
25 business, and a separate election for state purposes shall not be
26 ~~allowed under paragraph (3) of subdivision (e) of Section 23051.5.~~

27 (e) (1) If a taxpayer has, at any time, made an election for
28 federal *income tax* purposes under Section 475(f)(2) of the
29 Internal Revenue Code, relating to election of mark to market for
30 traders in commodities, to have Section 475 of the Internal
31 Revenue Code apply to a trade or business, Section 475 of the
32 Internal Revenue Code shall apply to that trader in commodities
33 for state purposes with respect to that trade or business, a separate
34 election for state purposes with respect to that trade or business
35 shall not be ~~allowed under paragraph (3) of subdivision (e) of~~
36 ~~Section 23051.5,~~ and the federal election with respect to that trade
37 or business shall be binding for purposes of this part.

38 (2) If a taxpayer fails to make, or has not previously made, an
39 election for federal *income tax* purposes under Section 475(f)(2)
40 of the Internal Revenue Code, relating to election of mark to

1 market for traders in commodities, to have Section 475 of the
2 Internal Revenue Code apply to a trade or business, an election
3 under Section 475(f)(2) of the Internal Revenue Code shall not be
4 allowed for state purposes with respect to that trade or business,
5 Section 475 of the Internal Revenue Code shall not apply to that
6 trader in commodities for state purposes with respect to that trade
7 or business, and a separate election for state purposes with respect
8 to that trade or business shall not be allowed ~~under paragraph (3)~~
9 ~~of subdivision (e) of Section 23051.5.~~

10 (f) (1) An election under Section 475(e) or (f) of the Internal
11 Revenue Code made for federal *income tax* purposes with respect
12 to a taxable year beginning before January 1, 1998, shall be treated
13 as having been made for state purposes with respect to the first
14 taxable year beginning on or after January 1, 1998.

15 (2) Section 1001(d)(4)(B) of the Taxpayer Relief Act of 1997
16 ~~PL~~ (*Public Law* 105-34), relating to the effective date for election
17 of mark to market by securities traders and traders and dealers in
18 commodities, is modified to provide that the requirement for
19 timely identification shall be treated as timely made for state
20 purposes if that identification is treated as timely made for federal
21 *income tax* purposes, and the amount taken into account under
22 Section 481 of the Internal Revenue Code of 1986 shall be taken
23 into account ratably over the four-taxable-year period beginning
24 with the first taxable year beginning on or after January 1, 1998.

25 *SEC. 44. Section 24872.4 of the Revenue and Taxation Code*
26 *is amended to read:*

27 24872.4. (a) Section 856(d)(7)(C)(ii) of the Internal
28 Revenue Code is modified by substituting the phrase “if received
29 by an organization described in subdivision (b) of Section 17651
30 of Part 10 or Section 23731” for the phrase “if received by an
31 organization described in section 511(a)(2).”

32 (b) (1) An election under Section 856(e)(5) of the Internal
33 Revenue Code for federal *income tax* purposes shall be treated for
34 purposes of this part as an election made by the real estate
35 investment trust under Section 856(e)(5) of the Internal Revenue
36 Code for state purposes and a separate election ~~under paragraph (3)~~
37 ~~of subdivision (e) of Section 23051.5~~ shall not be allowed.

38 (2) Any revocation of an election under Section 856(e)(5) of
39 the Internal Revenue Code for federal *income tax* purposes shall
40 be treated for purposes of this part as a revocation of the election

1 made by the real estate investment trust under Section 856(e)(5)
2 of the Internal Revenue Code for state purposes and a separate
3 election ~~under paragraph (3) of subdivision (e) of Section 23051.5~~
4 shall not be allowed with respect to the property for any
5 subsequent taxable year.

6 (3) If the real estate investment trust fails to make an election
7 under Section 856(e)(5) of the Internal Revenue Code for federal
8 *income tax* purposes with respect to any property, that property
9 shall not be treated for purposes of this part as foreclosure
10 property, an election under Section 856(e)(5) of the Internal
11 Revenue Code for state purposes with respect to that property shall
12 not be allowed, and a separate election ~~under paragraph (3) of~~
13 ~~subdivision (e) of Section 23051.5~~ shall not be allowed with
14 respect to that property.

15 (c) This section shall apply to taxable years beginning after
16 August 5, 1997.

17 (d) The amendments made to this section by the act adding this
18 subdivision shall apply to taxable years beginning on or after
19 January 1, 1998.

20 *SEC. 45. This act provides for a tax levy within the meaning*
21 *of Article IV of the Constitution and shall go into immediate effect.*
22 *The sections of this bill that conform to federal law, in whole or in*
23 *part, shall be operative with respect to the period as the federal law*
24 *provision to which it conforms.*

25 ~~is amended to read:~~

26 ~~17731. Subchapter J of Chapter 1 of Subtitle A of the Internal~~
27 ~~Revenue Code, as amended by the Victims of Terrorism Relief Act~~
28 ~~of 2001 (Public Law 107 —, H.R. 2884), relating to estates,~~
29 ~~trusts, beneficiaries, and decedents, shall apply, except as~~
30 ~~otherwise provided.~~

31 ~~SEC. 2. The amendments made to Section 17731 of the~~
32 ~~Revenue and Taxation Code by this act shall apply to taxable years~~
33 ~~ending on or after September 11, 2001.~~

34 ~~SEC. 3. This act provides for a tax levy within the meaning of~~
35 ~~Article IV of the Constitution and shall go into immediate effect.~~

36